

# General Terms and Conditions for the supply of Kiwitron goods and services

2024-10-01 edition



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## Revision history

Revision	Release date	Comments
00	2024-10-01	First version

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## GENERAL TERMS AND CONDITIONS

FOR THE SUPPLY OF KIWITRON GOODS AND SERVICES

[GENERAL TERMS AND CONDITIONS FOR THE CLOUD COMPUTING-BASED SUPPLY OF SOFTWARE (SAAS) AND DEVICES FOR THE MANAGEMENT OF BUSINESS FLEETS RELATING TO FORKLIFTS AND ANCILLARY SERVICES]

### SECTION I. – GENERAL PROVISIONS

**ART. 1. GENERAL AND SPECIFIC PROVISIONS. OBJECT. – 1.1.** THESE GENERAL TERMS AND CONDITIONS REGULATE THE CONTRACTUAL RELATION OCCURRING BETWEEN KIWITRON SRL, IN PERSON OF ITS LEGAL REPRESENTATIVE *PRO TEMPORE* (WITH REGISTERED OFFICES IN SASSO MARCONI (BO), VIA VIZZANO NO. 44, VAT NUMBER AND FISCAL CODE 02055970970, REGISTERED WITH THE CHAMBERS OF COMMERCE OF BOLOGNA, R.E.A. SECTION, UNDER NO. BO – 488192.1.4, REGISTERED E-MAIL: KIWITRON@LEGALMAIL.IT, E-MAIL: ACCOUNTING@KIWITRON.IT), HEREINAFTER ALSO REFERRED TO AS «THE SUPPLIER», AND THE CUSTOMER (AS SPECIFICALLY IDENTIFIED BY THE MEANS OF THE ORDER APPROVED FOR ACCEPTANCE BY THE SUPPLIER), REGARDING THE SUPPLY, AGAINST PAYMENT OF A FEE, OF THE SERVICE OF USE, THROUGH CLOUD COMPUTING AND IN SAAS (SOFTWARE AS A SERVICE) MODE, OF (1) SOFTWARE AIMED AT THE SUPPLY OF BUSINESS FLEETS, FORKLIFTS AND OTHER COMPANY VEHICLES, (2) SOFTWARE AIMED AT THE MITIGATION OF RISKS ASSOCIATED TO FORKLIFTS, OTHER COMPANY VEHICLES, AND/OR PEOPLE, TOGETHER WITH THE RESPECTIVE (3) DEVICES AND/OR PRODUCTS, AS PER SECTION III OF THESE GENERAL TERMS AND CONDITIONS, AND OTHER (4) ANCILLARY SERVICES, ALL PROVIDED THAT – AND TO THE EXTENT THAT – THEY ARE INDIVIDUALLY AND SPECIFICALLY IDENTIFIED IN THE ORDER THAT HAS BEEN APPROVED BY THE SUPPLIER FOR ACCEPTANCE AND IN THE WAYS SPECIFIED THEREIN.

**1.2.** NO PREJUDICE IS, IN ANY CASE, MADE TO SPECIAL CONDITIONS THAT MAY HAVE BEEN AGREED UPON BY THE PARTIES, WHICH SHOULD BE DEEMED AS SUPPLEMENTARY TO THE GENERAL TERMS AND CONDITIONS. GENERAL AND SPECIAL TERMS AND CONDITIONS, WHEN BOTH PRESENT, SHALL BE INTERPRETED AS A WHOLE. IN THE EVENT THAT A CONFLICT BETWEEN GENERAL AND SPECIAL TERMS AND CONDITIONS OCCURS, THE LATTER SHALL PREVAIL, ALSO AS AN EXCEPTION TO THE FORMER.

**1.3.** PROVISIONS RELATING TO THE SUPPLY OF INDIVIDUAL SERVICES, (EITHER) MAIN AND/OR ANCILLARY, DEVICES AND/OR PRODUCTS, AS WELL AS SIM CARDS, THAT ARE HEREIN SPECIFIED, APPLY ON A CASE-BY-CASE BASIS TO EACH CONTRACTUAL RELATION ONLY IF THE ORDER THAT HAS BEEN APPROVED FOR ACCEPTANCE BY THE SUPPLIER ENCOMPASSES THE SPECIFIC SERVICE AND/OR DEVICE OR THE SIM CARD TO WHICH INDIVIDUAL DISPOSITIONS REFER. THE VERY MENTION, WITHIN THE PRESENT GENERAL TERMS AND CONDITIONS, OF MAIN AND/OR ADDITIONAL SERVICES AND/OR DEVICES, PRODUCTS, AND SIM CARDS THAT ARE NOT SPECIFICALLY MENTIONED WITHIN THE ORDER THAT HAS BEEN APPROVED BY THE SUPPLIER FOR ACCEPTANCE, DOES NOT IMPLY AN OBLIGATION, FOR THE SUPPLIER, TO PROVIDE FOR THE SERVICE AND/OR THE DEVICE, PRODUCT OR SIM CARD, WHEN IT IS NOT SPECIFICALLY REFERRED TO IN THE ORDER THAT HAS BEEN APPROVED BY THE SUPPLIER ITSELF.

**1.4.** THESE GENERAL TERMS AND CONDITIONS, AS PER ARTICLE 1341, PARA. 1, OF THE ITALIAN CIVIL CODE ARE EFFECTIVE AND APPLY TO THE CONTRACTUAL RELATION OCCURRING BETWEEN THE PARTIES UPON THE KNOWLEDGE OF THE CUSTOMER AT THE TIME OF COMPLETION OF THE CONTRACT OR WHEN, DESPITE NOT HAVING ACTUALLY KNOWN THEM, SAID CUSTOMER COULD HAVE BY THE MEANS OF ORDINARY DILIGENCE, EXCEPT FOR THE NEED OF A SPECIFIC APPROVAL OF THE CLAUSES FALLING UNDER THE PROVISIONS OF ARTICLES 1341, PARA. 1, AND 1342, PARA. 2 OF THE ITALIAN CIVIL CODE. SENDING AN ORDER ENTAILS, IN ANY EVENT, THE KNOWLEDGE AND COMPLETE ACCEPTANCE OF THE GENERAL TERMS AND CONDITIONS AS WELL AS EVERY OTHER ATTACHED DOCUMENT; AS A RESULT, THE CUSTOMER, WHEN PROCEEDING TO THE ONLINE SUBMISSION OF THE SIGNED ORDER, UNCONDITIONALLY ACCEPTS AND UNDERTAKES, WITHIN THE CONTEXT OF ITS RELATIONS WITH THE SUPPLIER, TO COMPLY WITH THE GENERAL CONDITIONS OF PAYMENT STATED BELOW, DECLARING TO HAVING ACKNOWLEDGED THEM.

**1.5.** NO PREJUDICE IS, IN ANY CASE, MADE TO THE POSSIBILITY OF ONE-SIDED MODIFICATION BY THE SUPPLIER OF EITHER THE GENERAL CONDITIONS OR OF THE OTHER ELEMENTS OF THE CONTRACTS, PURSUANT TO ARTICLE 6 OF THE PRESENT GENERAL CONDITIONS («JUS VARIANDI AND TERMINATION»). ANY MODIFICATION TO THE GENERAL CONDITIONS AND TO THE OTHER ELEMENTS OF THE CONTRACT HYPOTETICALLY SUBMITTED BY THE CUSTOMER MUST BE CARRIED OUT IN WRITING, UNDER PENALTY OF NULLITY.

**ART. 2. DEFINITIONS. – 2.1.** THE PARTIES DECLARE THAT THE EXPRESSIONS USED WITHIN THE PRESENT GENERAL AND SPECIAL (IF ANY) CONDITIONS, AS WELL AS IN THE CUSTOMER'S ORDER THAT HAS BEEN SIGNED FOR ACCEPTANCE BY THE SUPPLIER AND IN OTHER RELATED DOCUMENTS, (INCLUDING THE CONTRACT OF DESIGNATION AS DATA PROCESSOR OR SUB-PROCESSOR, PURSUANT TO ARTICLE 28, REGULATION (EU) NO. 679/2016, GDPR), USED EITHER IN THE SINGULAR OR PLURAL FORM AND REPORTED EITHER WITH CAPITAL OR LOWERCASE INITIAL LETTER MUST BE INTERPRETED IN THE SENSE AND WITH THE MEANINGS BELOW SPECIFIED FOR EACH OF THEM AND, RESPECTIVELY:

A) «MAIN SERVICES»: ONE OR BOTH OF THE FOLLOWING SERVICES: (A/1) MANAGEMENT OF FORKLIFT COMPANY FLEETS AND/OR OTHER COMPANY VEHICLE FLEETS; (A/2) ANTI-COLLISION SOLUTIONS FOR FORKLIFTS, OTHER COMPANY FLEETS AND/OR PEOPLE;

B) « FLEET MANAGEMENT SERVICE»: CLOUD-COMPUTING SAAS (SOFTWARE AS A SERVICE) SERVICE ENTAILING THE USE OF THE SOFTWARE AIMED AT MANAGING AND CONTROLLING FORKLIFT COMPANY FLEETS AND/OR OTHER COMPANY FLEETS, TO BE USED TOGETHER WITH THEIR RESPECTIVE DEVICES OR PRODUCTS;

C) «ANTI-COLLISION SYSTEM MANAGEMENT SERVICE» OR, BRIEFLY, «ANTI-COLLISION SERVICE»: CLOUD-COMPUTING SAAS (SOFTWARE AS A SERVICE) SERVICE ENTAILING THE USE OF THE ANTI-COLLISION SOFTWARE FOR FORKLIFTS AND OTHER VEHICLES AND/OR PEOPLE, TO BE USED TOGETHER WITH THEIR RESPECTIVE DEVICES OR PRODUCTS;

D) «ADDITIONAL SERVICES»: SERVICES BEING ACCESSORY AND INSTRUMENTAL TO THE MAIN SERVICES, ENTAILING ONE OR MORE OF THE FOLLOWING SERVICES: INSTALLATION AND PERSONALIZATION SERVICE; HELP DESK AND TECHNICAL SUPPORT SERVICE; STATIC AND/OR DYNAMIC MAINTENANCE SERVICE; BACKUP SERVICE; STORAGE SERVICE; WITH EXCEPTION OF THE OTHER SERVICES EXPLICITLY STATED IN THE ORDER APPROVED BY THE SUPPLIER;

E) «CLOUD COMPUTING SERVICES»: CLOUD COMPUTING-BASED SUPPLY OF SAAS (SOFTWARE AS A SERVICE), PROVIDED TO THE CUSTOMER BY THE SUPPLIER WITHIN THE CONTEXT OF THE MAIN SERVICES;

F) «SERVICES UPON PAYMENT OF A FEE »: SERVICES – WHETHER MAIN OR ADDITIONAL – WHOSE PERFORMANCE IS CARRIED OUT FOR A FIXED PERIOD OF TIME AND TACITLY RENEWED FOR EQUAL PERIODS OF TIME AND IN EXCHANGE FOR A FEE TO BE PERIODICALLY PAID AND TO BE DETERMINED IN THE AMOUNT OF THE COMMERCIAL OFFER OR THE ORDER THAT HAS BEEN SENT BY THE CUSTOMER AND APPROVED BY THE SUPPLIER OR, IN THE EVENT THAT BOTH ARE MISSING, ACCORDING TO THE CURRENT RATES OR TO THE BUSINESS USES THE SUPPLIER IS ACCUSTOMED TO AND WITHOUT PREJUDICE TO FIXED COSTS (AS, FOR EXAMPLE, ACTIVATION FEES, ETC.), IF ANY;

G) «SERVICES»: MAIN AND ADDITIONAL SERVICES, CONSIDERED BROADLY OR AS A WHOLE;

H) «VEHICLES»: FORKLIFTS AND/OR OTHER COMPANY VEHICLES SERVING TRANSPORTATION OR LOCOMOTION PURPOSES, EITHER AUTOMATED OR NOT, ON WHICH THE MAIN SERVICES ARE IMPLEMENTED;

I) «DEVICES»: HARDWARE DEVICES TO BE USED JOINTLY WITH THE MAIN SERVICES;

L) «PRODUCTS»: DEVICES AND/OR OTHER MATERIAL GOODS SPECIFICALLY AND INDIVIDUALLY IDENTIFIED WITHIN THE ORDER APPROVED FOR ACCEPTANCE BY THE SUPPLIER;

M) «SIM CARDS»: SIM CARDS, REGISTERED TO EITHER THE SUPPLIER OR A SUBJECT THAT CAN BE TRACED BACK TO IT (E.G., MANAGER OR PARTNER), BROUGHT TO THE CUSTOMER ON CONSIGNMENT, TOGETHER WITH THE DEVICES ON WHICH THEY ARE INSTALLED. EACH OF THEM IS ASSOCIATED WITH A SUBSCRIPTION SERVICE;

N) «DATA» OR «CUSTOMER DATA»: DATA THAT THE SUPPLIER OR THIRD PARTIES THAT MAY HAVE BEEN AUTHORIZED BY THE SUPPLIER (USERS) HAVE ENTERED IN THE IT SYSTEM, TO THE EXTENT PROVIDED FOR BY THIS CONTRACT AND THE ATTACHED ORDERS, IN OCCASION OF THE USE OF THE MAIN SERVICES, WITH NO PREJUDICE TO THE OTHERS;

O) «CLOUD FACILITY»: INFORMATION TECHNOLOGY INFRASTRUCTURE AS A SERVICE (IAAS), LOCATED ON SERVERS BASED WITHIN THE EUROPEAN UNION, IN THE AVAILABILITY OF THE SUPPLIER ON THE BASIS OF A SPECIFIC CONTRACT WITH THIRD PARTY SUPPLIERS WITH REGISTERED SEATS IN THE EUROPEAN UNION AND FUNDAMENTAL TO THE PROVISION, BY THE SUPPLIER, OF CLOUD COMPUTING

SERVICES IN BOTH PAAS (PLATFORM AS A SERVICE) AND SAAS (SOFTWARE AS A SERVICE) FORMS;

P) «SERVICE LEVEL AGREEMENT» OR «SLA»: SERVICE LEVELS, TO BE REGARDED TO AS INDICATORS OF THE STANDARD MINIMAL PERFORMANCES TO THE PROVISION OF THE SERVICE, THAT THE SUPPLIER UNDERTAKES TO MEET WHILE PROVIDING THE SERVICE, AS WELL AS EVENTUAL PENALTIES, COMPENSATION AND/OR DAMAGE COMPENSATION THAT MAY BE ACKNOWLEDGED TO THE CUSTOMER IN THE EVENT THAT SUCH LEVELS ARE NOT OVERCOME.

Q) «CONTRACT»: THE AGREEMENT BETWEEN THE SUPPLIER AND THE CUSTOMER, SUBJECT TO THE PRESENT GENERAL AND SPECIAL (IF ANY) CONDITIONS, AS WELL AS TO THE FURTHER POSSIBLE DOCUMENTATION ATTACHED ABOUT SERVICES AND/OR DEVICES AND PRODUCTS IN THE ORDER SENT BY THE CUSTOMER AND APPROVED BY THE SUPPLIER FOR ACCEPTANCE.

R) «CONDITIONS FOR THE USE»: LICENSE TERMS FOR THE USE OF THE CLOUD-COMPUTING BASED SOFTWARE (SAAS) IN THE CONTEXT OF THE PROVISION OF THE MAIN SERVICES AND FURTHER REQUIREMENTS TO MEET AS TO THE USE OF THE MAIN (OR OTHER) SERVICES;

S) «PARTIES»: THE SUPPLIER AND THE CUSTOMER, JOINTLY CONSIDERED;

T) «USERS» OR «AUTHORIZED USERS»: INDIVIDUALS THAT ARE GIVEN PERMISSION BY THE CUSTOMER, UNDER ITS LIABILITY AND TO THE EXTENT THAT IS PROVIDED BY THIS AGREEMENT, TO ACCESS THE IT SYSTEM UPON ASSIGNMENT AND ENABLING OF THE AUTHENTICATION CREDENTIALS OR ANY OTHER AUTHENTICATION SYSTEM;

U) «THIRD PARTY SUPPLIERS»: SUBJECTS OTHER THAN THE PARTIES, WITH THE NECESSARY TECHNICAL SKILLS, PROVIDING FOR IT PRODUCTS AND/OR SERVICES (E.G., CLOUD FACILITY, CONNECTION TO THE INTERNET, SOFTWARE USER LICENSE AGREEMENTS, ETC) AND OTHER PRODUCTS AND SERVICES (E.G., POWER SUPPLY) FUNDAMENTAL TO THE SUPPLY AND/OR USE OF SERVICES PROVIDED FOR BY THE SUPPLIER;

V) «NORMAL WORKING DAYS»: FROM 9.00 A.M. TO 11.00 A.M. AND FROM 14.00 P.M. TO 16.00 P.M. OF THE ITALIAN TIME ZONE (GMT +1:00), EVERY WORKING DAY;

Z) «WORKING DAYS»: EVERY DAY OF THE WEEK APART FROM SATURDAY, SUNDAY AND NATIONAL HOLIDAYS IN ITALY.

**ART. 3. CONCLUSION OF THE CONTRACT. – 3.1.** WITHOUT PREJUDICE TO THE PROVISIONS SET FORTH IN THE FOLLOWING ART. 4 OF THE PRESENT GENERAL CONDITIONS, THE AGREEMENT BETWEEN THE SUPPLIER AND THE CUSTOMER IS HELD TO BE EFFECTIVE WHEN THE ORDER RELATED TO THE SERVICES AND/OR THE DEVICES OR PRODUCTS FOR WHICH THE SUPPLY IS ASKED, AFTER HAVING BEEN SENT TO THE SUPPLIER EITHER BY E-MAIL OR CERTIFIED E-MAIL, IS APPROVED BY THE SUPPLIER FOR ACCEPTANCE ACCORDING TO THE WAYS SET OUT IN THE FOLLOWING ARTICLE 3.2.

**3.2.** IN ORDER TO FACILITATE THE CONCLUSION OF THE CONTRACT, THE SUPPLIER MAY SEND A COMMERCIAL OFFER TO THE CUSTOMER ENTAILING THE DETAILS OF THE ECONOMIC, TECHNICAL AND LEGAL TERMS OF THE ENVISIONED CONTRACTUAL RELATION (E.G. THE INDICATION OF ONE OR MORE PRODUCTS AND/OR SERVICES AND THEIR RELATIVE PRICES, WITHOUT PREJUDICE TO OTHERS). SUCH COMMERCIAL OFFER MUST BE INTENDED NOT AS A CONTRACT PROPOSAL BUT, INSTEAD, AS AN INVITATION TO OFFER. FOLLOWING THE RECEIPT OF THE COMMERCIAL OFFER THE CUSTOMER, WHEN WILLING TO ENTER INTO THE CONTRACT, WILL HAVE TO FORWARD ITS ORDER, WHICH WILL THEN CONSTITUTE AN OFFER THAT IS NOT SUBJECT TO CHANGE AND BINDING FOR A PERIOD OF THIRTY DAYS, AS WELL AS ENTAILING THE SPECIFIC NUMBER OF SERVICES AND PRODUCTS AT STAKE. WITHIN SAID THIRTY-DAYS TERM, THE SUPPLIER MAY FINALIZE THE CONTRACT BY EXPLICITLY APPROVING THE ORDER EITHER BY E-MAIL OR CERTIFIED E-MAIL, AS PER ARTICLE 1326 OF THE ITALIAN CIVIL CODE)

**3.3.** BEFORE THE CONCLUSION OF THE CONTRACT, THE SUPPLIER CAN – AT ITS SOLE DISCRETION – REJECT THE ORDER AND PREVENT THE CONTRACT TO BE CONCLUDED, WITHOUT ANYTHING BEING OWED TO THE CUSTOMER DUE TO THE FAILURE TO CONCLUDE THE CONTRACT, FOR ANY REASON WHATSOEVER.

**3.4.** WHILE FORWARDING THE ORDER, THE CUSTOMER – WHO EXPLICITLY DECLARES TO HAVE TAKEN VISION, BEFORE THE CONCLUSION OF THE CONTRACT, OF THE DEVICES AND/OR PRODUCTS AND/OR SERVICES OF THE SUPPLIER AS WELL AS UNDERTAKING EVERY LIABILITY UPON ITS CHOICES AND THE INFORMATION GIVEN AND/OR REQUESTS MADE IN SUCH REGARD TO THE SUPPLIER – MUST SPECIFY THE PRECISE REFERENCES IN THE FORM OF THE ARTICLE CODE OR NAME THEREOF, UNIQUELY IDENTIFYING THE REQUESTED PRODUCT AND/OR SERVICE AND/OR SIM CARD(S). THE SUPPLIER DOES NOT HOLD ANY LIABILITY FOR ERRORS AND/OR OMISSIONS THAT MAY BE LIKELY TO HAPPEN AS A CONSEQUENCE OF THE CUSTOMER'S ERRORS OR MISSING/INCOMPLETE REFERENCES.

**3.5.** THE CONTRACTUAL RELATION IS INITIATED BY EACH PARTY IN THE OCCASION OF THEIR RESPECTIVE BUSINESS UNDERTAKINGS; AS A RESULT, THE CUSTOMER, WHILE ESTABLISHING AND GIVING EXECUTION TO THE CONTRACTUAL RELATION WITH THE SUPPLIER, ACTS WITHIN THE CONTEXT OF ITS BUSINESS AND/OR PROFESSIONAL UNDERTAKING AND FOR RELATED PURPOSES. CONSUMER PROTECTION LAWS, THEN, DO NOT APPLY TO THE CONTRACTUAL RELATION OCCURRING BETWEEN THE SUPPLIER AND THE CUSTOMER.

**3.6.** IN ORDER TO ENSURE THE PRESERVATION OF THE AGREEMENT BETWEEN THE PARTIES, THE PARTIES AGREE THAT IN THE EVENT THAT THE CONTRACT IS INEFFECTIVE AND/OR VOID WITH REGARD TO THE SUPPLY OF ONE OR MORE SERVICES AND/OR DEVICES OR PRODUCTS (SIM CARDS INCLUDED) INDICATED IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE, THE CONTRACT, WHEN POSSIBLE, WILL STILL BE EFFECTIVE TO THE EXTENT OF THE SUPPLY OF THE OTHER SERVICES AND/OR DEVICES OR PRODUCTS (SIM CARDS INCLUDED), IF PROVIDED.

**3.7.** THE UNDERTAKINGS OF THE SUPPLIER MAY BE PERFORMED AS A WHOLE OR IN PART, ALSO THROUGH THIRD PARTIES, WHEN IT IS DEEMED TO BE USEFUL ACCORDING TO THE SOLE DISCRETION OF THE SUPPLIER. THE CUSTOMER, BY SIGNING THE ORDER AND CONCLUDING THE CONTRACT, GIVES ITS APPROVAL WITHOUT ANY RESERVATION, ALSO ACCORDING TO AND TO THE EFFECTS OF ARTICLE 1656, OF THE ITALIAN CIVIL CODE.

**3.8.** NO PREJUDICE IS MADE TO THE POSSIBILITY, FOR THE SUPPLIER, TO TRANSFER THE CONTRACT TO ANOTHER COMPANY, AS PER ARTICLE 27 OF THESE GENERAL TERMS AND CONDITIONS.

**ART. 4. EVALUATION PERIOD OF THE PRODUCT/SERVICES SUPPLIED AND RESERVATION OF APPROVAL. – 4.1.** WHERE EXPLICITLY

STATED IN THE ORDER SUBMITTED BY THE CUSTOMER AND APPROVED BY THE SUPPLIER, THE INDIVIDUAL SERVICES AND/OR DEVICES AND/OR PRODUCTS, SIM CARDS INCLUDED, ARE SUPPLIED TO THE CUSTOMER UPON RESERVATION OF APPROVAL, TO BE EXPRESSED WITHIN THE THREE MONTHS STARTING EITHER FROM THE DATE OF ACTIVATION OF THE SERVICE AND/OR DELIVERY OF THE DEVICE AND/OR PRODUCT (UNLESS OTHERWISE AGREED, IN WRITING, WITH THE SUPPLIER) TO THE SOLE PURPOSE OF ALLOWING THE CUSTOMER TO VERIFY ITSELF, AT ITS OWN PREMISES, THEIR SUITABILITY TO ITS BUSINESS NEEDS.

**4.2.** BEING THIS THE CASE, THE CONTRACT SHALL BE CONSIDERED CONCLUDED WHEN THE CUSTOMER HAS EXPRESSED ITS APPROVAL BEFORE THE EXPIRY OF SAID TERM, EXCEPT FOR THE PRESUMPTION OF APPROVAL AS PER THE FOLLOWING ARTICLE 4.3.

**4.3.** SINCE THE SUPPLY OF THE SERVICE AND/OR DEVICE OR PRODUCT, SIM CARDS INCLUDED, IS CARRIED OUT AT THE PREMISES OF THE CUSTOMER, WHO CAN ACCESS THE SERVICE DIRECTLY FROM ITS LOCATION AND/OR TELEMATICALLY AND ACTUALLY TEST THEREIN THE FUNCTIONALITIES OF THE DEVICES AND PRODUCTS SUPPLIED TO IT IN ORDER TO MAKE THE APPROPRIATE ASSESSMENTS, IN THE EVENT THAT THE CUSTOMER ITSELF SHOULD NOT MAKE A STATEMENT CONCERNING ITS APPROVAL OR NON-APPROVAL WITHIN SAID THREE-MONTHS TERM, THE SERVICE AND/OR DEVICE AND/OR PRODUCT AT STAKE SHALL BE CONSIDERED APPROVED AND THE CONTRACT VALIDLY CONCLUDED AT THE END OF SAID PERIOD, ALSO ACCORDING TO ARTICLE 1520, PARA. 3 OF THE ITALIAN CIVIL CODE (WHERE APPLICABLE). SHOULD THE CUSTOMER GIVE ITS APPROVAL BEFORE THE EXPIRY OF SUCH TERM, THE CONTRACT WILL BE CONSIDERED CONCLUDED BY THE TIME SUCH APPROVAL IS EXPRESSED TO THE SUPPLIER.

**4.4.** SHOULD THE CUSTOMER, WITHIN THE EVALUATION PERIOD, EXPRESS ITS NON-APPROVAL OF THE SERVICE AND/OR DEVICE OR PRODUCT WITHIN THE TIME LIMIT REFERRED TO IN ARTICLE 4.1., THE CONTRACT SHALL BE DEEMED AS NOT CONCLUDED. THE CUSTOMER WILL BE THEN ASKED NOT TO RETAIN ANY OF (NOT EVEN IN DIGITAL COPY), OR TO IMMEDIATELY RETURN, IN ITS OWN CARE AND AT ITS EXPENSES, THE ITEMS THAT HAVE BEEN SUPPLIED TO IT FOR SOLE EVALUATION PURPOSES. THE RETURN OF THE DEVICES AND/OR PRODUCTS AND ANY OTHER MATERIAL GOOD THAT HAS BEEN SENT FOR EVALUATION PURPOSES SHALL BE CARRIED OUT BY COURIER, JOINTLY AND/OR SIMULTANEOUSLY WITH THE NOTICE OF NON-APPROVAL AND THE SUBMISSION OF AN ADEQUATE RETURN LETTER. THE GOODS SHALL BE RETURNED INTACT, WITHOUT ANY DAMAGES OR SIGNS OF WEAR-AND-TEAR. THE SUPPLIER, WITHIN THREE MONTHS FOLLOWING THE RECEIPT OF THE GOODS RETURNED BY THE CUSTOMER, IF SUCH GOODS ARE NOT INTACT, NOT DAMAGED AND SHOWING SIGNS OF WEAR AND TEAR, RESERVES THE FULL AND LEGITIMATE RIGHT TO CHARGE THE CUSTOMER THE REPAIR COSTS AND/OR THE WHOLE SALE PRICE OF THE DEVICE AND/OR PRODUCT, DEPENDING ON THE CONDITIONS OF THE RETURNED GOODS.

**4.5.** THE USE OF SOFTWARE OR DEVICES OR PRODUCTS AFTER THE NOTICE OF NON-APPROVAL, AS WELL AS THE DELAYED RETURN OR EVEN THEIR FAILURE TO RETURN, SHALL BE DEEMED A MAJOR VIOLATION OF THE CONTRACTUAL OBLIGATIONS AND, OVERALL, A CONDUCT THAT IS BLATANTLY CONTRARY TO GOOD FAITH. THE FAILURE TO COMPLY WITH THE DISPOSITIONS OF THIS PARAGRAPH AND THE PREVIOUS ARTICLE 4.4. ENTAILS THE OBLIGATION, FOR THE CUSTOMER, TO PAY THE AMOUNT OF 2.000 EUROS (VAT ASIDE) AS A PENALTY AND, ACCORDING TO ARTICLE 1382 OF THE ITALIAN CIVIL CODE, AS A MEAN OF COMPENSATION OF THE DAMAGES THAT HAVE BEEN AND WILL BE SUFFERED, WITH NO PREJUDICE TO THE DAMAGES EXCEEDING SUCH AMOUNT.

**ART. 5. MAIN OBLIGATIONS OF THE PARTIES AND OTHER OBLIGATIONS OR PROHIBITIONS. – 5.1.** THE SUPPLIER UNDERTAKES TO CARRY OUT – IN FAVOUR OF THE CUSTOMER AND UPON ITS PAYMENT OF THE AGREED FEE – THE SUPPLY OF THE INDIVIDUAL SERVICES AND/OR DEVICES AND/OR PRODUCTS, SIM CARDS INCLUDED, WHERE SPECIFICALLY AND INDIVIDUALLY INCLUDED IN THE ORDER SUBMITTED BY THE CUSTOMER AND APPROVED BY THE SUPPLIER, OR IN SUPPLEMENTARY DEEDS TO BE TRANSMITTED VIA REGISTERED E-MAIL, ACCORDINGLY TO THESE GENERAL TERMS AND CONDITIONS.

**5.2.** THE CUSTOMER UNDERTAKES TO PAY, IN FAVOUR OF THE SUPPLIER, THE FEE AS INDICATED IN THE ORDER SUBMITTED BY THE CUSTOMER AND APPROVED BY THE SUPPLIER AND, IN ANY CASE, LISTED IN THE INVOICES FORWARDED BY THE SUPPLIER ACCORDING TO THE PROVISIONS OF THESE GENERAL TERMS AND CONDITIONS, AND WITHOUT ANY PREJUDICE TO THE ADDITIONAL UNDERTAKINGS INCLUDED THEREIN.

**5.3.** THE CUSTOMER IS PROHIBITED FROM GIVING DATA THAT IS EITHER FAKE OR MADE UP OR FICTIONAL WITHIN THE CONTEXT OF THE ACTIVATION OF SERVICES SUPPLIED TO THE CUSTOMER. IT IS THEREFORE TO BE INTENDED THAT THAT THE IDENTIFYING DATA AND REGISTERED E-MAIL PROVIDED TO THE SUPPLIER IN RELATION TO THE ACTIVATION OF THE SERVICES AND/OR DEVICES AND/OR PRODUCTS SUBJECT OF THE CONTRACT, SIM CARDS INCLUDED, AS WELL AS WITHIN THE CONTEXT OF COMMUNICATIONS BETWEEN THE PARTIES MUST BE EXCLUSIVELY THOSE MATCHING THE ACTUAL AND REAL CONTACT DATA OF THE CUSTOMER AND ITS LEGAL REPRESENTATIVE AND/OR OTHER INDIVIDUAL THAT MAY BE ENTITLED TO REPRESENT IT. IT IS EXPLICITLY FORBIDDEN TO RESORT TO PSEUDONYMS OR DATA OF INDIVIDUALS THAT ARE NOT ENTITLED TO REPRESENT THE CUSTOMER, AS WELL AS TO USE FICTIONAL NAMES. THE SUPPLIER RESERVES THE RIGHT TO FILE CRIMINAL CHARGES.

**5.4.** THE CUSTOMER INDEMNIFIES AND HOLDS THE SUPPLIER HARMLESS FROM ANY RESPONSIBILITY ARISING FROM THE BILLING THAT IS WRONG DUE TO THE SUBMISSION OF WRONG DATA, BEING THE CUSTOMER THE ONLY PERSON LIABLE FOR THEIR CORRECT SUBMISSION.

**ART. 6. JUS VARIANDI AND TERMINATION. – 6.1.** THE SUPPLIER MAY UNILATERALLY CHANGE, IN WHOLE OR IN PART: A) THE GENERAL AND SPECIAL (IF ANY) TERMS AND CONDITIONS OF THE AGREEMENT; B) THE TERMS OF USE OF THE SUPPLIED SERVICES (POSSIBLY ALSO IN RELATION TO THE CHANGED TECHNOLOGICAL SCENARIO OR WITH REGARD TO THE ORDINARY MARKET DYNAMICS, EVEN WHEN DEPENDING ON THE CHANGE IN THE TECHNICAL AND ECONOMICAL CONDITIONS OF THIRD-PARTY SUPPLIERS OR THE COMMERCIAL STRATEGIES OF THE SUPPLIER); C) THE TECHNICAL FEATURES OF THE DEVICES AND/OR PRODUCTS AND/OR SERVICES, AS WELL AS THE ECONOMIC CONTENT OF THE AGREEMENT (INCLUDING THE CONTENT OF THE ACTIVITIES, THE IDENTIFICATION OF THE SERVICES, THE QUALITATIVE AND QUANTITATIVE FEATURES OF THE SUPPLIED SERVICES, THE SERVICE LEVEL AGREEMENT, THE FEE FOR ONE OR MORE SUPPLIED DEVICES OR PRODUCTS AND/OR SERVICES OR OTHER ELEMENTS AFFECTING THE FEATURES AND/OR METHODS FOR THE SUPPLY OF DEVICES, PRODUCTS AND SERVICES.

**6.2.** SUCH MODIFICATIONS OR CHANGES IN THE AGREEMENT ARE BROUGHT TO THE ATTENTION OF THE CUSTOMER THROUGHOUT THE WEBPAGE OF THE SUPPLIER, WHOSE ADDRESS IS RECALLED IN THE SALE OFFERS OR BY NOTICE ACCORDING TO ARTICLE 28 OF THESE TERMS AND CONDITIONS AND WILL BE APPLICABLE TO THE CONTRACTUAL RELATIONSHIP BETWEEN SUPPLIER AND CUSTOMER AFTER FIFTEEN DAYS FROM THE PUBLICATION ON THE WEBSITE OR TEN DAYS FROM THE COMMUNICATION TO THE CUSTOMER, WITH NO PREJUDICE WHATSOEVER TO THE POSSIBILITY, FOR THE CUSTOMER, TO TERMINATE THE CONTRACT WITHOUT ADDITIONAL COSTS OR PENALTIES, WITHIN TEN DAYS (STARTING FROM THE FIFTEENTH DAY SINCE THE MODIFICATIONS HAVE BEEN PUBLISHED ON THE WEBSITE OF THE SUPPLIER OR THE RECEIPT OF THE COMMUNICATION OF THE SUPPLIER CONCERNING THE UNILATERALLY MADE VARIATIONS), WITH NO PREJUDICE TO THE OBLIGATIONS THAT HAVE BEEN ALREADY TAKEN ON.

**6.3.** AFTER SAID PERIOD HAS EXPIRED, IN THE EVENT OF FAILURE TO EXERCISE THE RIGHT OF WITHDRAWAL, ACCORDING TO THE PREVIOUS ARTICLE 6.2, THE MODIFICATIONS WILL BE DEFINITELY AND FULLY EFFECTIVE TOWARDS BOTH PARTIES.

**6.4.** SHOULD THE CUSTOMER DEMAND FOR MODIFICATIONS OF THE QUALITATIVE/QUANTITATIVE FEATURES OF DEVICES, PRODUCTS AND/OR SERVICES AND THE MODES OF THEIR SUPPLY, OR ANY OTHER MODIFICATION CONCERNING THE CLAUSES OF THE AGREEMENT OR DOCUMENTS ATTACHED THEREOF, THE SUPPLIER RESERVES THE RIGHT OF ASSESSING ITS FEASIBILITY, COSTS AND FEE. THE REQUEST FOR MODIFICATION MUST BE FORWARDED FROM THE CUSTOMER TO THE SUPPLIER IN WRITING AND ACCORDING TO THE RULES SET OUT IN ARTICLE 28, UNDER PENALTY OF NULLITY.

**6.5.** IN CASE OF THE APPROVAL FROM THE SUPPLIER, AN ADDITIONAL FEE FOR SUCH MODIFICATIONS, CALCULATED FOLLOWING AN ANALYSIS OF THE REQUEST, SHALL BE DUE UNLESS THE FEE FOR SAID MODIFICATIONS IS ALREADY INCLUDED IN THE OFFER AND IN THE ORDER APPROVED BY THE SUPPLIER. THE MODIFICATIONS AND THE ADDITIONAL FEE MENTIONED HEREIN WILL BE EFFECTIVE ONLY AFTER THE EXPRESS APPROVAL FROM THE SUPPLIER, TO BE MADE IN WRITING. PENDING SUCH APPROVAL (OR THE EVENT THAT THE MODIFICATIONS AND/OR THE ADDITIONAL FEE ARE NOT APPROVED), BOTH THE SUPPLIER AND THE CUSTOMER WILL BE MUTUALLY REQUIRED TO PERFORM THEIR OBLIGATIONS PURSUANT TO THE CONTRACT, WITHOUT REGARD TO THE PROPOSED CHANGES.

**6.6.** THE EVALUATION OR MEASUREMENT IN TERMS OF NECESSARY WORKING HOURS OR DAYS, EITHER ON A BUDGETED OR AN ACTUAL BASIS, SHALL NOT BE REGARDED TO AS MODIFICATIONS TO THE FEE OR TO THESE GENERAL TERMS AND CONDITIONS, IN THE EVENT THAT PERFORMANCES AT HOURLY OR DAILY RATES – WHICH MAY BE COMMUNICATED ALSO BY E-MAIL – ARE ASKED FOR.

## **SECTION II. – MAIN SERVICES (COMPANY FLEET MANAGEMENT) AND ADDITIONAL SERVICES**

**ART. 7. SUPPLY OF SOFTWARE IN CLOUD (SAAS). COMPANY FLEET MANAGEMENT – 7.1.** WHEN MENTIONED IN THE ORDER APPROVED FOR ACCEPTANCE BY THE SUPPLIER, THE SUPPLIER COMMITS TO PROVIDE THE CUSTOMER THE USE OF A DEDICATED SOFTWARE (WHOSE INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS ARE ENTIRELY HELD BY THE SUPPLIER, ALONG WITH THE LEGAL AVAILABILITY OF THE SOFTWARE ITSELF) BY MEANS OF CLOUD-BASED SAAS (SOFTWARE AS A SERVICE), FOR THE PURPOSE OF EITHER MANAGING COMPANY FLEETS OF FORKLIFTS AND/OR OTHER COMPANY VEHICLES OR TO PROVIDE THE PEDESTRIAN DETECTION AND ANTI-COLLISION SYSTEM, WITH THE FEATURES AND FUNCTIONALITIES SPECIFIED IN THE COMMERCIAL OFFER, IN THE ORDER APPROVED BY THE SUPPLIER AND/OR THE TECHNICAL DOCUMENTS POSSIBLY ATTACHED.

**7.2.** IN THE ORDER APPROVED FOR ACCEPTANCE BY THE SUPPLIER, THE PARTIES MAY SPECIFY THE SUPPLY OF ANOTHER SOFTWARE BY MEANS OF CLOUD-BASED SAAS (SOFTWARE AS A SERVICE), TO WHICH THESE TERMS AND CONDITIONS STILL APPLY.

**7.3.** IF THE SUPPLY OF IN CLOUD SOFTWARE REQUIRES THE USE OF DEVICES OR OTHER PRODUCTS, INCLUDING SIM CARDS, THE CUSTOMER IS REQUIRED TO ASK FOR THEM IN THE ORDER SUBMITTED TO THE SUPPLIER, SUBJECT TO THE LEGAL AND ECONOMICAL CONDITIONS SPECIFIED WITHIN THE COMMERCIAL OFFER OF THE SUPPLIER. THE DISPOSITIONS SET FORTH IN SECTION III OF THESE GENERAL TERMS AND CONDITIONS WILL APPLY TO THE DEVICES, PRODUCTS AND SIM CARDS IN THE ORDER APPROVED BY THE SUPPLIER.

**7.4.** AS FOR THE IN CLOUD SAAS SOFTWARE SUPPLIED AND LISTED IN THE ORDER APPROVED BY THE SUPPLIER, THE LATTER ALLOWS THE CUSTOMER A FIXED TERM, NON-EXCLUSIVE RIGHT TO USE THE SOFTWARE, INDIVIDUALLY AND FOR ITS EMPLOYEES AND STAFF, THROUGH REMOTE CONNECTION. THE SOFTWARE TERMS OF USE MAY BE SPECIFIED IN THE COMMERCIAL OFFER AND THE ORDER APPROVED BY THE SUPPLIER, AS WELL AS IN ADDITIONAL TECHNICAL DOCUMENTS (IF ANY), WHEREIN THE FOLLOWING MAY ALSO BE SPECIFIED: A) MAXIMUM OF AUTHORIZED USERS OR DEVICES OR CONNECTED VEHICLES; B) OTHER LIMITATIONS OR RESTRICTIONS TO THE USE, E.G. GEOGRAPHICAL, ETC.; C) CRITERIA FOR CALCULATING THE FEE WITH PROVISION OF PRICE RANGES CHANGING ON THE BASIS OF THE NUMBER OF CONNECTED USERS OR DEVICES, UNLESS OTHER PARAMETERS ARE TAKEN INTO ACCOUNT; D) POSSIBILITY TO GIVE ACCESS TO THE SUPPLIER'S IT SYSTEM TO THIRD PARTIES, SUCH AS THE CUSTOMERS OF ITS CUSTOMERS. THE POSSIBILITY REFERRED TO IN LETTER D) MUST BE EXPLICITLY STATED WITHIN THE ORDER APPROVED FOR ACCEPTANCE BY THE SUPPLIER, ACCORDING TO THE PROVISIONS SET OUT IN THE FOLLOWING ARTICLE 7.6. THE USE OF THE SERVICES BY THE CUSTOMER IS THEN

LIMITED TO THE TERMS OF USE AND THE SPECIAL CONDITIONS SPECIFIED IN THE COMMERCIAL OFFER OR IN THE ORDER. THE CUSTOMER IS ESPECIALLY REQUIRED TO COMPLY WITH THE LICENSE AGREEMENTS, IF ANY, ISSUED FOR THE USE OF IN CLOUD SOFTWARE THAT HAS BEEN SUPPLIED IN THE CONTEXT OF THE MAIN SERVICES, AS WELL AS TO HAVE THEIR EMPLOYEES COMPLY WITH THE SAME.

**7.5.** UNLESS STATED OTHERWISE IN THE ORDER APPROVED BY THE SUPPLIER, THE SUPPLY OF IN CLOUD SOFTWARE SERVICES (SAAS) IS CARRIED OUT FOR A PERIOD OF TIME THAT HAS BEEN SPECIFICALLY AGREED UPON BY THE PARTIES IN THE ORDER PHASE. STARTING FROM THE FIRST DEADLINE SET BY THE PARTIES, THE SERVICES ARE TACITLY RENEWED FOR 12 MONTHS, UNLESS CANCELLED, IN RETURN FOR THE PAYMENT OF A FEE SPECIFIED IN THE SAME ORDER.

**7.6.** UNLESS OTHERWISE EXPLICITLY STATED IN THE ORDER APPROVED BY THE SUPPLIER, THE CUSTOMER IS PROHIBITED FROM ASSIGNING TO THIRD PARTIES THE USE OF IN CLOUD SOFTWARE PROVIDED BY THE SUPPLIER, AS WELL AS MARKETING AND/OR SUB-LICENSING SAID SOFTWARE. THE POSSIBILITY, FOR THE CUSTOMER, TO GIVE ITS CUSTOMERS ACCESS TO THE IN CLOUD SOFTWARE SUPPLIED MUST BE EXPLICITLY STATED BEFOREHAND IN THE ORDER APPROVED BY THE SUPPLIER, ALSO IN THE VIEW OF TAKING THEM INTO ACCOUNT IN THE CALCULATION OF THE SERVICE FEE.

**7.7.** IT IS THE CUSTOMER'S BURDEN TO OBTAIN AND KEEP FOR THE ENTIRE DURATION OF THE CONTRACT THE NECESSARY TECHNICAL EQUIPMENT (PERSONAL COMPUTERS AND/OR MOBILE DEVICES ALONG WITH THEIR OPERATIVE SYSTEMS AND PROGRAMS, CONNECTION TO THE INTERNET, ETC.) FOR THE USE OF IN CLOUD SOFTWARE SERVICES (SAAS), ENSURING, AS OF NOW, THE COMPATIBILITY AND THAT THE TECHNICAL REQUIREMENTS FOR THE PROPER USE OF THE SERVICES PROVIDED BY THE SUPPLIER ARE MET. IN THE EVENT THAT THE USE OF THE IN CLOUD SOFTWARE SERVICES (SAAS) REQUIRES THE USE OF DEVICES OR OTHER GOODS DELIVERED BY THE SUPPLIER, SIM CARDS INCLUDED, THE CUSTOMER IS REQUIRED, ACCORDING TO THE PREVIOUS ARTICLE 7.3, TO INCLUDE THEM IN THE ORDER AND REVERT TO THE SUPPLIER FOR THEIR OR, IN COMPLIANCE WITH COMMERCIAL USES OR WITH THE UPDATED PRICE LISTS OF THE SUPPLIER ITSELF.

**7.8.** THE IN CLOUD SOFTWARE SERVICES (SAAS) ARE SUPPLIED BY THE MEANS OF A CLOUD INFRASTRUCTURE WITH SERVERS LOCATED WITHIN THE TERRITORY OF THE ITALIAN REPUBLIC OR THE EUROPEAN UNION, UNLESS EXPLICITLY STATED OTHERWISE AND UPON EXPLICIT REQUEST OF THE CUSTOMER BASED UPON ITS OWN SPECIFIC NEEDS.

**7.9.** SOFTWARE THAT IS INVOLVED IN THE MAIN SERVICES AND WHOSE USE IS LICENSED IN CLOUD (SAAS), AS WELL AS OTHER SOFTWARE OR PART THEREOF LOCATED IN THE DEVICES AND NECESSARY TO THE INTERACTION WITH THE IN CLOUD SOFTWARE, ARE DELIVERED ON AN "AS-IS" BASIS, WITH THE FUNCTIONALITIES AND TECHNICAL AND FACTUAL FEATURES SHOWN AT THE TIME OF CONCLUSION OF THE CONTRACT, INCLUDING POSSIBLE BUGS WHICH ARE KNOWN TO BE POSSIBLY FOUND IN THE INFORMATION APPLICATION. BY SUBMITTING THE ORDER, THE CUSTOMER DECLARES TO ACCEPT THE SERVICE ON AN "AS-IS", FACTUAL BASIS, WITHOUT ANY CHARGE BEING MADE TO THE SUPPLIER IN THE EVENT THAT BUGS ARE FOUND IN THE SOFTWARE WHOSE SUPPLY IS THE SUBJECT OF THE CONTRACT. THE CUSTOMER, WHEN SUBMITTING THE ORDER, DECLARES TO HAVE TESTED THE FUNCTIONING OF THE SOFTWARE AND TO HAVE APPROVED IT, EXCEPT FOR THE CASE REFERRED TO IN ARTICLE 4 OF THE PRESENT TERMS AND CONDITIONS, THE CUSTOMER BEING ABLE TO RESERVE THE APPROVAL FOLLOWING THE EVALUATION PERIOD THAT HAS BEEN GRANTED AFTER THE SUBMISSION OF THE ORDER. IN THE EVENT THAT SOFTWARE ISSUES DUE TO THE EXISTENCE OF BUGS OCCUR AND THE CUSTOMER FINDS THEM AND REPORTS THEM TO THE SUPPLIER, THE LATTER WILL PROVIDE FOR CORRECTIVE UPDATES BY THE MEANS OF NEW RELEASES OR SOFTWARE VERSIONS.

**7.10.** IF, FOR ANY REASON, THE CONTRACT AND/OR THE RIGHTS OF USE OF THE SOFTWARE PREVIOUSLY GRANTED TO THE CUSTOMER CEASE, THE CUSTOMER SHALL, IN ANY CASE (EVEN WHEN GIVEN EXPLICIT PERMISSION BY THE SUPPLIER BEFOREHAND), DISINSTALL AND DELETE THE SUPPLIER'S (OR OTHER THIRD PARTIES') SOFTWARE LOCATED ON ITS IT SYSTEM AND/OR DEVICES, IN THE CASE THAT SUCH SOFTWARE, OR EVEN ONLY ONE OF ITS COMPONENTS, HAS BEEN INSTALLED IN OCCASION OF THE SUPPLY OF THE MAIN OR ADDITIONAL SERVICES.

**ART. 8. ACTIVATION OF THE MAIN SERVICES – 8.1.** THE SUPPLIER UNDERTAKES, TO THE EXTENT THAT IT HAS BEEN PROVIDED FOR WITHIN THE ORDER, TO SET UP AT ITS OWN CARE WHAT IS NECESSARY TO THE ACTIVATION OF THE MAIN SERVICE(S) MENTIONED IN THE ORDER APPROVED FOR ACCEPTANCE BY THE SUPPLIER RELATING TO THE SUPPLY OF SPECIFIC SERVICES TO BE USED IN CLOUD

(SOFTWARE AS A SERVICE), EITHER BY MEANS OF CLOUD INFRASTRUCTURES OR SERVER OWNED BY THE SUPPLIER ITSELF OR THAT THE SUPPLIER HAS IN ITS AVAILABILITY, WITHIN THE AGREED DATE SET OUT IN THE ORDER.

**8.2.** BY CONTRAST, THE OPERATIONS OF INSTALLATION AND CONFIGURATION WHICH MAY BE REGARDED TO AS NECESSARY AT THE CUSTOMER'S PREMISES ARE EXCLUDED FROM THE SUPPLY OF THE MAIN SERVICE AND ARE, INSTEAD, PART OF THE ANCILLARY SERVICES. THE FEE FOR THE LATTER DOES NOT FALL WITHIN THE FEE DUE FOR THE MAIN SERVICE.

**8.3.** THE SUPPLIER WILL EXPEDITIOUSLY PROVIDE THE CUSTOMER WITH THE CREDENTIALS FOR AUTHENTICATION (OR ANY OTHER KIND OF CREDENTIALS) THAT MAY BE NECESSARY TO THE USE OF THE SOFTWARE RELATED TO THE MAIN SERVICES SELECTED IN THE ORDER.

**8.4.** THE CUSTOMER IS AWARE THAT THE IN CLOUD SOFTWARE SERVICES PROVIDED AS MAIN SERVICES, WHEN NOT OWNED BY THE SUPPLIER, ARE LICENSED BY THIRD PARTY SUPPLIERS HOLDING THE RESPECTIVE INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS. THE CUSTOMER SHALL, IN ANY CASE, COMPLY WITH THE LIMITATIONS SET OUT IN THE SOFTWARE LICENSE AGREEMENTS OR IN THE TERMS OF USE. MOREOVER, THE CUSTOMER IS AWARE THAT POSSIBLE OPERATING DEFECTS OF THE SOFTWARE DELIVERED BY THIRD PARTY SUPPLIERS ARE NOT ASCRIBABLE TO THE SUPPLIER, WHO DOES NOT HOLD ANY CONTROL OR INTERVENTION POWER WITH REGARD TO SAID DEFECTS. AS A RESULT, ANY LIABILITY OF THE SUPPLIER FOR DEFECTS OR MALFUNCTIONING OF THE SOFTWARE OF THIRD-PARTY SUPPLIERS, AVAILABLE EITHER IN CLOUD COMPUTING-MODE OR ANY OTHER POSSIBLE MODE IS EXCLUDED, ALONG WITH ANY LIABILITY FOR DAMAGES, EVEN WHEN INDIRECT, THAT THE CUSTOMER HAS REPORTED WHILE USING SAID SOFTWARE.

**8.5.** THE CUSTOMER IS (AND REMAINS) SOLELY RESPONSIBLE FOR THE ARRANGEMENT, STORING, RETENTION, UPDATE, DELETION OF DATA, AS WELL AS FOR ANY OTHER OPERATION ON SUCH DATA, ELABORATED OR ARRANGED THROUGH THE MAIN SERVICE AND THE RELATED SOFTWARE, AS WELL AS THE DEVICES AND/OR PRODUCTS AND RELATED SOFTWARE, WITHOUT ANY LIABILITY HELD BY THE SUPPLIER, UNLESS FOR WILFUL MISCONDUCT AND GROSS NEGLIGENCE, AS STATED BY THE LAW. AS FOR SUCH DATA THE CUSTOMER, UNLESS OTHERWISE SPECIFIED BY THE MEANS OF WRITTEN APPROVAL (UNDER PENALTY OF NULLITY), IS THE SOLE DATA CONTROLLER PURSUANT TO (AND FOR EFFECTIVENESS PURPOSES OF) EU REGULATION 679/2016 AND LEGISLATIVE DECREE 196/2003.

**ART. 9. MAIN SERVICES RELATED SERVICE LEVEL AGREEMENT (SLA)– 9.1.** THE CUSTOMER UNDERSTANDS THAT – DUE TO THE PECULIAR FEATURES OF FUNCTIONING OF THE INTERNET NETWORK AND THE NATURE OF THE MAIN SERVICES SUBJECT OF THIS CONTRACT, TOGETHER WITH THE TECHNICAL IMPOSSIBILITY TO DELIVER A 100% FUNCTIONING OPERATION AND SERVICE ON AN ONGOING BASIS - MAIN SERVICES, INCLUDING IN CLOUD SOFTWARE SERVICES SUPPLIED BY THE SUPPLIER WILL BE AVAILABLE AND/OR ACCESSIBLE WITHIN THE LIMITS OF THE MINIMUM SERVICE LEVELS SPECIIFICALLY AND INDIVIDUALLY IDENTIFIED IN THE SERVICE LEVEL AGREEMENT (SLA) DOCUMENT ATTACHED TO THE COMMERCIAL OFFER AND/OR THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE.

**9.2.** IF SAID DOCUMENT IS NOT ATTACHED, THE MINIMUM SERVICE LEVEL THE SUPPLIER IS BOUND TO WHILE PROVIDING THE MAIN SERVICES SET OUT IN THE AGREEMENT AMOUNTS TO 95% OF THE UPTIME WITHIN A CALENDAR YEAR. IN THAT CASE, THE SERVICES MAY NOT BE AVAILABLE FOR A REMAINING TIME WHICH, IF NOT OTHERWISE SPECIFIED IN THE ATTACHED SLA, AMOUNTS TO A YEARLY 0,5%. THE PERIOD OF UNAVAILABILITY OF THE SERVICE RELEVANT TO THE SERVICE LEVEL AGREEMENT (SLA) STARTS FROM THE RECEIPT, BY THE SUPPLIER, OF THE CUSTOMER'S NOTICE, WHICH THE LATTER IS REQUIRED TO EXPEDITIOUSLY SUBMIT IN THE FORMS SPECIFIED IN ARTICLE 28 OF THIS AGREEMENT.

**9.3.** IT IS UNDERSTOOD THAT, IN CALCULATING THE MINIMUM SERVICE LEVEL, THE ANNUAL BASIS FOR COMPUTING UPTIME SHOULD BE CONSIDERED NET OF THE TIME REQUIRED FOR PLANNED MAINTENANCE, PROVIDED DURING THE MAINTENANCE WINDOW FROM 08:00 TO 0:00, ITALIAN TIME ZONE. PLANNED MAINTENANCE IS DEEMED PART OF THE MAIN SUPPLY SERVICE TOWARDS THE CUSTOMER; THEREFORE, SHOULD SAID MAINTENANCE TEMPORARILY INTERRUPT ACCESS TO SOFTWARE SUPPLIED AS SAAS OR THE DATA ENCOMPASSED THEREIN, STILL DOES NOT CONSTITUTE NON-COMPLIANCE (NOT EVEN PARTIAL) TO THE CONTRACT INTO FORCE BETWEEN THE PARTIES, NOR SHOULD IT BE DEEMED INEFFICIENCY OR FAILURE TO PROVIDE THE SERVICE.

**9.4.** WITH NO PREJUDICE TO WHAT HAS BEEN STATED BY THE PREVIOUS PARAGRAPHS, PERIODS OF TIME DURING WHICH THE SERVICE IS UNAVAILABLE DUE TO: A) ORDINARY AND EXTRAORDINARY MAINTENANCE ACTIVITY, CARRIED OUT BY THE SUPPLIER OR THIRD

PARTIES, INCLUDING THIRD PARTY SUPPLIERS AND CONCERNING THE CLOUD INFRASTRUCTURE AND PLATFORMS (IAAS AND PAAS), AS WELL AS TO THE IN CLOUD SOFTWARE SERVICES (SAAS) AND, GENERALLY SPEAKING, TO THE IT SYSTEM USED AT THE CUSTOMER'S PREMISES; B) FORCE MAJEURE OR INEVITABLE ACCIDENT CAUSES, OR UNFORESEEABLE EVENTS THAT OBJECTIVELY INTERFERE WITH THE SUPPLIER'S OR OTHER SUBJECTS' (INCLUDING THIRD PARTY SUPPLIERS) CAPACITY OF DELIVERING THE SERVICES ON A REGULAR, CONTINUOUS BASIS, OF RESETTING SAID SERVICES AND ORDINARY AND EXTRAORDINARY MAINTENANCE OF THE IT SYSTEMS CURRENTLY IN USE (THE FORCE MAJEURE CAUSES INCLUDING, BUT NOT LIMITED TO STRIKES, ALSO WHEN INVOLVING THE CUSTOMER'S OR THIRD PARTY SUPPLIER'S PERSONNEL; DEMONSTRATIONS INVOLVING THE BLOCKING OF COMMUNICATION ROUTES AND NETWORKS; ACTS OF TERRORISM; NATURAL DISASTERS SUCH AS FLOODS, EARTHQUAKES, STORMS, HURRICANES, FLOODING, LIGHTNING; FIRES; POWER BLACKOUTS, (EXCEPT AS OTHERWISE STATED), (C) FACTS ATTRIBUTABLE TO THE CUSTOMER OR THIRD PARTIES, INCLUDING THE CASE OF INCORRECT CONFIGURATION, INCORRECT USE OF THE SERVICE, INCORRECT ACTIVATION OF COMMANDS BY THE CUSTOMER OR THIRD PARTIES; (D) FAILURE TO CONNECT TO THE INTERNET BY THE SUPPLIER; (E) MALFUNCTIONS, INEFFICIENCIES OR FAILURE TO PROVIDE SERVICES BY OTHER INTERNET SERVICE PROVIDERS, OTHER THAN THE PROVIDER; (F) ANOMALIES OR MALFUNCTIONS OF SOFTWARE AND OTHER IT RESOURCES PROVIDED OR LICENSED BY THIRD PARTIES; (G) AS A RESULT OF FAILURE TO PERFORM OR BREACH OF CONTRACT, ATTRIBUTABLE TO THE CUSTOMER (INCLUDING CASES OF SUSPENSION AND/OR INTERRUPTION OF SERVICE PROVIDED FOR IN ARTICLE 19.3 OF THESE GENERAL TERMS AND CONDITIONS); (H) CAUSES THAT RESULT IN THE INACCESSIBILITY, IN WHOLE OR IN PART, OF THE FACILITY AND SERVICES ATTRIBUTABLE TO FAILURES OF THE EXTERNAL INTERNET NETWORK, IN RESPECT OF WHICH THE SUPPLIER DOES NOT HAVE DIRECT CONTROL, SHALL BE EXCLUDED FROM THE CALCULATION OF THE TIME OF UNAVAILABILITY OF THE SERVICE (AND SHALL NOT, AS SUCH, BE COUNTED FOR THIS PURPOSE).

**9.5.** IN THE CASE THE MINIMUM LEVEL OF GUARANTEED AVAILABILITY THRESHOLD AS PER THE PREVIOUS PARAGRAPHS OF THIS ARTICLE IS NOT MET, THE SUPPLIER, UPON EXPRESS OBJECTION BY THE CUSTOMER SUBSTANTIATED BY SUITABLE EVIDENCE TO BE COMPARED WITH THE FINDINGS EMERGING FROM THE IT SYSTEM USED BY THE SUPPLIER ITSELF, UNDERTAKES TO PROVIDE THE CUSTOMER WITH THE MAIN SERVICES AS LISTED IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE, WITHOUT ANY ADDITIONAL FEE, FOR A PERIOD OF TIME (FURTHER TO THE ONE ORDINARILY DUE IN FULFILLMENT OF THE CONTRACT), EQUAL TO THE OVERALL UNAVAILABILITY TIME OF THE SERVICE EXCEEDING THE ONE INDICATED AS THE MINIMUM THRESHOLD OF THE SERVICES WITHIN THE SERVICE LEVEL AGREEMENT (SLA). DAMAGE COMPENSATION IS EXPLICITLY EXCLUDED, AS WELL AS THE PAYMENT, BY THE SUPPLIER, OF ANY ADDITIONAL AMOUNT FOR ANY REASON (INCLUDING MONETARY COMPENSATION).

**9.6.** THE PARTIES STATE THAT THE DOCUMENT OF AGREEMENT ON THE SERVICE LEVEL (SLA) REFERRED TO IN THE PREVIOUS ARTICLE 9.1., TOGETHER WITH THE CLAUSES ABOUT THE SERVICE LEVEL AGREEMENT AS PER THIS ARTICLE, SHALL BE INTERPRETED JOINTLY AND WHOLLY, WHEN COMPATIBLE. IN THE EVENT THAT ANY DISCREPANCY OR DISCORDANCE POSSIBLY ARISING SHOULD NOT BE SETTLED AT AN INTERPRETATIVE LEVEL, THE DISPOSITIONS INCLUDED IN THE SEPARATE SLA DOCUMENT SHALL PREVAIL. REGARDLESS, AS TO WHAT HAS NOT BEEN PROVIDED OF IN SAID DOCUMENT, EXCLUSIONS AND CONSEQUENCES ARISING FROM THE FAILURE TO MEET THE SERVICE LEVELS ARE DETERMINED AND/OR INTEGRATED BY THE CLAUSES OF THIS ARTICLE.

**ART. 10. ANCILLARY SERVICES. – 10.1.** WHEN PROVIDED FOR IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE AND WITH NO PREJUDICE TO THE PROVISIONS LAID DOWN IN THE PREVIOUS ARTICLE, THE SUPPLIER COMMITS TO PROVIDE – DIRECTLY OR BY THE MEANS OF THIRD-PARTY SUPPLIERS – ALONG WITH THE MAIN SERVICES, THE ADDITIONAL SERVICES THAT MAY HAVE BEEN SPECIFIED IN THE ORDER ITSELF (INCLUDING, FOR EXAMPLE, SERVICES OF CONSULTING, SUPPORT TO THE INSTALLATION, PERSONALISATION, TECHNICAL SUPPORT, PERIODIC BACKUP OF THE CUSTOMER'S DATA, MAINTENANCE, EXCEPT OTHERWISE STATED), TO THE CONDITIONS ENVISIONED IN THE COMMERCIAL OFFER AND IN THE ORDER APPROVED BY THE CUSTOMER AND BY THE SUPPLIER FOR ACCEPTANCE.

**10.2.** AS TO THE ADDITIONAL TECHNICAL SUPPORT, STORAGE AND BACKUP SERVICES, THE PROVISIONS SET OUT IN THE FOLLOWING ARTICLES 11 AND 12 SHALL STILL APPLY.

**ART. 11. TECHNICAL SUPPORT SERVICE. – 11.1.** WHEN PROVIDED FOR IN THE ORDER, THE TECHNICAL SUPPORT SYSTEM CAN BE DELIVERED ON-SITE, AT THE CUSTOMER'S PREMISES OR REMOTELY. IN THE LATTER CASE, THE CUSTOMER GIVES THE SUPPLIER EXPLICIT PERMISSION, FOR THE SOLE PURPOSES OF CARRYING OUT THE NECESSARY TECHNICAL SUPPORT OPERATIONS THAT THE CUSTOMER HAS REQUESTED, TO ACCESS ITS IT SYSTEM, PROVIDING THE SUPPLIER WITH INFORMATION, DATA AND/OR AUTHENTICATION CREDENTIALS THAT MAY BE NECESSARY TO THE CORRECT PERFORMANCE OF THE ACTIVITIES AND, IF NEEDED, WITH A DEDICATED APP OR A REMOTE SUPPORT PROGRAM.

**11.2.** AS FOR THE TECHNICAL SUPPORT ACTIVITIES, THE CUSTOMER SHALL STEADILY COMMUNICATE AND DESCRIBE TO THE SUPPLIER, IN THE WAYS INDICATED IN ARTICLE 28 OF THIS CONTRACT, THE TECHNICAL ISSUES, MALFUNCTIONS OR, IN ANY CASE, THE TECHNICAL PROBLEM ENCOUNTERED, REQUESTING THE INTERVENTION OF THE TECHNICAL ASSISTANCE, THEREBY AUTHORIZING THE TECHNICAL OPERATIONS NECESSARY TO RESTORE THE REGULAR FUNCTIONALITY OF THE SERVICE. SHOULD THE PROBLEMS ENCOUNTERED BY THE CUSTOMER DEPEND ON IT RESOURCES MANAGED BY THIRD-PARTY SUPPLIERS WITH WHICH THE SUPPLIER HAS DIRECT CONTRACTUAL RELATIONSHIPS FOR THE PURPOSE OF PROVIDING THE SERVICE, THE SUPPLIER WILL TAKE STEPS TO REPORT THE PROBLEM TO THE AFOREMENTIONED THIRD-PARTY SUPPLIERS, REQUESTING THEIR TECHNICAL INTERVENTION AND PROMPTLY INFORMING THE CUSTOMER. IN THE LATTER CASE, THE TIMING AND MODE OF INTERVENTION ARE SET BY THE THIRD-PARTY SUPPLIERS AND, THEREFORE, NO RESPONSIBILITY CAN BE ASCRIBED TO THE SUPPLIER.

**11.3.** UNLESS OTHERWISE STATED IN THE COMMERCIAL OFFER AND/OR ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE, IT IS SPECIFIED THAT THE MAXIMUM TIME FOR TAKING CARE OF THE PROBLEM IS 8 (EIGHT) WORKING HOURS FROM THE CUSTOMER'S REQUEST FOR CUSTOMER SERVICE (AND, REGARDLESS, DURING NORMAL BUSINESS HOURS), STARTING FROM THE REGISTRATION OF THE CUSTOMER'S REQUEST, WHICH MUST BE SUBMITTED THROUGH SPECIFIC CHANNELS, SUCH AS EMAIL OR SUPPORT TICKET OPENED ON THE ONLINE PLATFORM PROVIDED BY THE SUPPLIER. TECHNICAL PROBLEMS EXPERIENCED WITHIN THE SOFTWARE DEVELOPED BY THE SUPPLIER AND SOLVABLE THROUGH INTERVENTIONS THAT DO NOT REQUIRE AN INTERVENTION ON THE SOURCE CODE WILL BE RESOLVED IN THE SHORTEST POSSIBLE TIME, WHILE TECHNICAL PROBLEMS INVOLVING THE NEED FOR SUCH INTERVENTION OR THE RELEASE OF PATCHES WILL BE RESOLVED BY THE VENDOR WITH THE DELIVERY OF A NEW RELEASE OR A NEW VERSION OF THE SOFTWARE ENJOYED IN CLOUD COMPUTING, SAAS-MODE.

**11.4.** IN ANY CASE, THE PARTIES AGREE THAT THE PERFORMANCE INVOLVING THE EXECUTION OF THE TECHNICAL INTERVENTION CONSTITUTES OBJECT OF OBLIGATION OF MEANS AND NOT OF RESULT.

**11.5.** THE CUSTOMER IS AWARE THAT THE REQUESTED TECHNICAL INTERVENTION MAY ENTAIL A HIGH DEGREE OF RISK FOR THE FUNCTIONING OF THE SERVICE AND/OR THE INTEGRITY OF DATA AND INFORMATION WITHIN THE IT SYSTEM AND AGREES TO TAKE SOLE RESPONSIBILITY FOR ALL THE RELATED RISKS. THE CUSTOMER IS, IN ANY CASE, REQUIRED TO PERIODICALLY MAKE UPDATED COPIES OF SUCH DATA AND/OR INFORMATION, PURSUANT TO ARTICLE 12.3 OF THESE GENERAL TERMS AND CONDITIONS, IN ORDER TO ENSURE THEIR AVAILABILITY.

**11.6.** WITHOUT ANY PREJUDICE TO THE PROVISIONS AS LAID OUT IN ARTICLE 9 [«MAIN SERVICES RELATED SERVICE LEVEL AGREEMENT (SLA)»] AND IN ARTICLE 25 [«LIABILITY»], THE PARTIES AGREE THAT EVERYTHING THAT RESULTS FROM THE LOG FILES ADMINISTERED AND RETAINED BY THE SUPPLIER ACCORDING TO LAW ASSUMES MUTUAL PROBATIVE RELEVANCE, TOGETHER WITH THE IT EVIDENCE RESULTING FROM THE IT SYSTEM AND THE CLOUD FACILITY USED FOR THE SUPPLY OF THE SERVICE. NONE OF THE ABOVE CAN BE CONTESTED OR REFUSED BY THE CUSTOMER.

**ART. 12. STORAGE AND BACKUP SERVICE. – 12.1.** WHEN PROVIDED FOR IN THE ORDER AND/OR FEATURES SPECIFIC TO THE TYPE OF SERVICE BOUGHT BY THE CUSTOMER, THE SUPPLIER COMMITS TO MAKE AVAILABLE, WITHIN THE LIMITS OF THE AGREED AMOUNT OF CAPACITY, THE STORAGE FOR DATA AND INFORMATION OVER WHICH THE CUSTOMER HOLDS EXCLUSIVE CONTROL AND AVAILABILITY.

**12.2.** WHEN EXPLICITLY STATED IN THE ORDER, THE SUPPLIER COMMITS TO MAKE, ON BEHALF OF THE CUSTOMER AND FOR A PERIOD OF TIME EQUAL TO THE DURATION OF THE MAIN SERVICE, BACKUP COPIES OF DATA NO LESS THAN EVERY SEVEN WORKING DAYS AND, NORMALLY DAILY, UNLESS OTHERWISE STATED IN THE ORDER ITSELF.

**12.3.** IN ANY CASE, THE CUSTOMER IS MADE AWARE OF THE NECESSITY OF CARRYING OUT ON ITS OWN IT SYSTEM, PURSUANT TO ARTICLE 32, EU REGULATION N. 679/2019, ANOTHER BACKUP COPY OF THE STORED DATA BY THE MEANS OF THE SOFTWARE THAT HAS BEEN DELIVERED BY THE SUPPLIER IN THE CONTEXT OF THE MAIN SERVICES, IN ORDER TO ENSURE THEIR AVAILABILITY EVEN IF THE ONLINE SYSTEM IS, BY ANY CHANCE, UNAVAILABLE.

**12.4.** IN THE EVENT THAT THE AGREEMENT ENTAILING THE SUPPLY OF THE MAIN SERVICES, ALONG WITH THE SUPPLY OF IN CLOUD

SOFTWARE SERVICES AND/OR SUPPLEMENTARY STORAGE AND BACKUP SERVICES CEASES TO HAVE EFFECT (ALSO DUE TO CANCELLATION OR TERMINATION), THE SUPPLIER, PURSUANT TO ARTICLE 32, EU REGULATION N. 679/2019, AS A MEASURE OF TECHNICAL SAFETY AIMED AT MAKING AVAILABLE DATA THAT HAS BEEN GENERATED BY THE USER BY THE USE OF THE MAIN SERVICE, COMMITS TO RETAIN A BACKUP COPY, WHICH THE CUSTOMER AUTHORIZES WITH THE SUBMISSION OF THE ORDER AND THE CONCLUSION OF THE CONTRACT, OF ALL THE CUSTOMER'S DATA FOR A PERIOD OF SEVEN DAYS FROM THE TERMINATION OF THE SERVICE, AT THE END OF WHICH EVERY BACKUP COPY OF SAID DATA WILL BE DEFINITELY DESTROYED WITHOUT FURTHER NOTICE. BEFORE SAID TERM THE CUSTOMER WILL BE ABLE TO GET, UPON REQUEST TO BE SUBMITTED BY COMMUNICATION ACCORDING TO THE FORMS INDICATED BY ARTICLE 28 OF THESE GENERAL TERMS AND CONDITIONS, A COPY OF SUCH DATA. AFTER THE EXPIRATION OF THIS PERIOD AND WITHOUT ANY EXPLICIT REQUEST OF DATA DELETION HAVING BEEN SUBMITTED, THE BACKUP COPY WILL BE DEFINITELY DESTROYED AND THE DATA ENCOMPASSED THEREIN DEFINITELY CANCELLED. THE SUPPLIER WILL CARRY OUT THE FINAL DELETION OF SUCH DATA AND ALL BACKUP COPIES EVEN IF, WITHIN THE AFOREMENTIONED RETENTION PERIOD, IT HAS RECEIVED THE CUSTOMER'S REQUEST TO TRANSMIT THE DATA AND HAS ALREADY DONE SO.

### **SECTION III. – SALE OF DEVICES, PRODUCTS AND SIM CARDS**

**ART. 13. SALE OF DEVICES AND OTHER PRODUCTS. – 13.1.** WHERE PROVIDED FOR IN THE ORDER SUBMITTED BY THE CUSTOMER AND APPROVED BY THE SUPPLIER, THE LATTER SELLS TO THE FORMER THE DEVICES AND/OR PRODUCTS SPECIFIED IN SAID ORDER, IN WHICH THE EXACT REFERENCES OF THE ARTICLE CODE OR NOMENCLATURE UNIVOCALLY IDENTIFYING THE REQUESTED DEVICE AND/OR PRODUCT, AS PER ARTICLE 3.4 OF THESE GENERAL TERMS AND CONDITIONS.

**13.2.** THE PRICE FOR THE PURCHASE OF THE DEVICE AND/OR PRODUCT THAT THE CUSTOMER HAS TO PAY, AS PER SECTION IV OF THESE GENERAL TERMS AND CONDITIONS, SHALL BE PAID WITHIN THE TERMS INDICATED IN THE INVOICE, ALSO IN THE EVENT OF DELAY IN DELIVERY OR THE CUSTOMER'S FAILURE TO RETIRE THE GOOD.

**13.3.** TRANSPORTATION IS ALWAYS CHARGED TO THE CUSTOMER (EXW). SHOULD THE CUSTOMER NOT CHOOSE THE TRANSPORTATION VEHICLE IN THE PURCHASE ORDER, SHIPMENT WILL BE MADE BY THE SUPPLIER (DAP); IN THIS CASE, THE TRANSPORTATION COST WILL BE BILLED ACCORDING TO THE WEIGHT/VOLUME OF THE GOODS AND THE MARKET PRICE IN EFFECT AT THE TIME OF SHIPMENT.

**ART. 14. MODE OF DELIVERY. – 14.1.** THE SUPPLIER WILL DELIVER TO THE CUSTOMER, TO THE LOCATION THAT HAS BEEN SPECIFIED IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE, THE DEVICE AND/OR PRODUCT SPECIFIED THEREIN, BY COURIER OR OTHER MEANS OF TRANSPORT AGREED UPON BY THE PARTIES.

**14.2.** THE DELIVERY TIME INDICATED BY THE SUPPLIER IN THE COMMERCIAL OFFER AND/OR PROVIDED IN THE ORDER IS MERELY INDICATIVE AND SHALL NOT BE BINDING ON THE SUPPLIER, UNLESS OTHERWISE EXPRESSLY AGREED BETWEEN THE PARTIES, TO BE MADE IN WRITING UNDER PENALTY OF NULLITY.

**14.3.** RISKS, TRANSPORTATION AND SHIPPING COSTS ARE CHARGED TO THE CUSTOMER.

**14.4.** THE SUPPLIER IS NOT LIABLE FOR THE DAMAGES THAT MAY OCCUR TO THE DEVICES AND/OR PRODUCTS, NOR FOR THE DELAYS IN DELIVERY CAUSED BY THE CARRIER, BEING THE LATTER TOTALLY FOREIGN TO THE RELATIONSHIPS BETWEEN THEM AND THE CUSTOMER.

**14.5.** THE CUSTOMER SHALL VERIFY, AT THE TIME OF RECEIPT, THE COMPLIANCE OF THE PRODUCT WITH THE PURCHASE ORDER.

**14.6.** THE CUSTOMER SHALL COMMUNICATE TO THE SUPPLIER, WITHIN TWO WORKING DAYS AFTER DELIVERY (WITH THE COUNTING STARTING FROM THE DAY NEXT TO DELIVERY), UNDER PENALTY OF FORFEITURE, EITHER BY E-MAIL OR CERTIFIED E-MAIL: A) ANY DAMAGE TO THE DEVICE AND/OR PRODUCT OR THEIR PACKAGING OR LACK THEREOF; B) THE NON-RESPONSIVENESS OF THE DEVICE AND/OR PRODUCT TO THE ORDER PLACED, SPECIFYING THE REASONS FOR IT.

**14.7.** SHOULD THE CUSTOMER NOT COMPLY WITH REPORTING REQUIREMENTS WITHIN THE TERMS AND WAYS ABOVE INDICATED, THE DEVICE AND/OR PRODUCT WILL BE DEEMED ACCEPTED AT THE DELIVERY TIME.

**14.8.** IN THE CASES REFERRED TO IN ARTICLE 14.6. ABOVE, THE CUSTOMER MUST RETURN, WITHIN THE TIME AND IN THE MANNER PROVIDED FOR IN ARTICLE 16, THE DEVICE AND/OR PRODUCT TO THE SUPPLIER WHO WILL PROVIDE FOR ITS REPLACEMENT.

**14.9.** IF THE CUSTOMER DOES NOT ACCEPT THE DELIVERY OF THE DEVICE AND/OR PRODUCT DESPITE THE FACT THAT IT IS IN ACCORDANCE WITH THE PURCHASE ORDER, OR IT IS NOT POSSIBLE TO TAKE CARE OF ITS DELIVERY FOR REASONS THAT ARE NOT ATTRIBUTABLE TO IT, IT WILL BE CHARGED FOR THE COST OF STORING THE DEVICE AND/OR PRODUCT, WITHOUT PREJUDICE TO THE SUPPLIER'S RIGHT TO OBTAIN PAYMENT OF THE PRICE.

**14.10.** NO LIABILITY OR APPLICATION OF PENALTIES CAN BE ATTRIBUTED TO THE SUPPLIER IN CASE OF DELAY IN THE DELIVERY OF THE DEVICE AND/OR PRODUCT.

**14.11.** FACTS PREVENTING AND/OR DELAYING DELIVERY TO THE CARRIER (SUCH AS, BUT NOT LIMITED TO, STRIKES, INCLUDING COMPANY STRIKES, LOCKOUTS, FIRES, ETC.) ARE CONVENTIONALLY CONSIDERED AS FORCE MAJEURE CAUSES, NOT ATTRIBUTABLE TO THE SUPPLIER, TO WHICH THE NON-DELIVERY AND/OR DELAYED DELIVERY CANNOT BE CONTESTED, NOR CAN IT BE HELD LIABLE THEREFOR.

**Art. 15. WARRANTIES. EXCLUSIONS. – 15.1.** THE SUPPLIER WARRANTS THE FUNCTIONING OF THE DEVICES AND/OR PRODUCTS FOR 12 (TWELVE) MONTHS STARTING FROM THE DATE INDICATED IN THE TRANSPORT DOCUMENT, UNLESS OTHERWISE AGREED IN WRITING BY THE PARTIES (SO-CALLED WARRANTY EXTENSION). WITHOUT PREJUDICE TO THE PROVISIONS REFERRED TO IN ARTICLE 14.6 OF THESE GENERAL TERMS AND CONDITIONS, POSSIBLE FURTHER FLAWS OR DEFECTS SHALL BE REPORTED IN ADVANCE TO THE SUPPLIER, UNDER PENALTY OF FORFEITURE, WITHIN 8 DAYS AFTER DISCOVERY. SHOULD THE SUPPLIER ASCERTAIN THE IMPOSSIBILITY OF REPAIRING SAID FLAWS OR DEFECTS BY TICKET OR BY E-MAIL, THE SUPPLIER WILL GIVE THE CUSTOMER A RETURN AUTHORIZATION NUMBER (RAN) ALONG WITH THE RELATED INSTRUCTIONS FOR THE SHIPPING OF THE GOODS. THE CUSTOMER WILL BE REQUIRED TO SEND THE GOODS TO BE REPAIRED TO THE ADDRESS INDICATED THEREIN, AT ITS OWN EXPENSE. THE SUPPLIER RESERVES THE RIGHT TO RETURN TO THE SENDER (EXW) THE GOODS THAT HAVE BEEN RECEIVED WITHOUT AUTHORIZATION.

**15.2.** SHOULD THE PRODUCT, DURING A NORMAL USE CARRIED OUT WITHIN THE WARRANTY PERIOD, PROVE TO BE DEFECTIVE, THE SUPPLIER WILL CARRY OUT THE NECESSARY REPAIRS, ACCORDING TO THE CONDITIONS LISTED BELOW:

- A) NO PRICE WILL BE CHARGED AS FOR THE MANPOWER OR PARTS THAT HAVE BEEN POSSIBLY REPLACED;
- B) THE SUPPLIER RESERVES THE RIGHT TO DECIDE ON THE REPLACEMENT OF THE DEVICE AND/OR DEFECTIVE PRODUCT (O PART THEREOF) WITH ANOTHER EQUIVALENT, FUNCTIONING ONE OR, AT THE SOLE DISCRETION OF THE SUPPLIER, REFUND THE PRICE OF PURCHASE WITHOUT ANYTHING BEING OWED AT ANY CAPACITY;
- C) DEVICES AND/OR PRODUCTS OR PARTS THEREOF WHICH MAY BE DEFECTIVE AND WILL BE REPLACED WILL REMAIN PROPERTY OF THE SUPPLIER.

**15.3.** THE SUPPLIER WARRANTS THE REPAIRED OR REPLACED PARTS FOR THE REMAINDER OF THE INITIAL WARRANTY PERIOD APPLICABLE TO THE ORIGINAL PRODUCT AND, IN ANY EVENT, FOR 30 DAYS FOLLOWING THE REPLACEMENT OF THE PARTS.

**15.4.** ANY RIGHT OF THE CUSTOMER TO DAMAGES FOR DEFECTS AND/OR FAULTS IN THE PRODUCT IS EXCLUDED.

**15.5.** THE DEFECTIVE PARTS SHALL BE SENT FOR REPAIR TO THE SUPPLIER AT THE SEAT SPECIFIED IN ARTICLE 1 OF THESE GENERAL TERMS AND CONDITIONS, ACCORDING TO THE "DAP" MODE.

**15.6.** THE SUPPLIER RESERVES THE RIGHTS OF SCHEDULING, UPON CUSTOMER'S REQUEST, A REPAIR AT THE CUSTOMER'S PREMISES, TO THE EXTENT AND TERMS TO BE AGREED UPON BY THE MEANS OF A SEPARATE WRITTEN AGREEMENT.

**15.7.** THE WARRANTY SHALL NOT APPLY IN CASE OF THE CUSTOMER'S FAILURE TO COMPLY (EVEN IN PART) WITH THE OBLIGATION TO PAY THE PRICE FOR THE DEVICE AND/OR PRODUCT AND/OR ANY OTHER SERVICES COVERED BY THE CONTRACT.

**15.8.** THE SUPPLIER DOES NOT TAKE ON ANY OBLIGATION OR WARRANTY THAT IS NOT EXPLICITLY STATED IN THE AGREEMENT BETWEEN THE PARTIES AND DOES NOT WARRANT THE SUITABILITY OF THE DEVICE AND/OR PRODUCT TO A SPECIFIC AIM. THE CUSTOMER CHOOSES GOODS AND SERVICES AND AGREES TO AND NEGOTIATES THEIR TECHNICAL FEATURES DIRECTLY WITH THE SUPPLIER AS WELL AS INDEPENDENTLY EVALUATING THE TECHNICAL SUITABILITY OF THE GOODS TO ITS NECESSITIES.

**15.9.** IN THE EVENT THAT THE RETURNED DEVICE AND/OR PRODUCT, OR PART THEREOF, SHOULD NOT BE DEFECTIVE, THE CUSTOMER WILL BE REQUIRED TO PAY THE SUPPLIER THE SUM OF € 80.00, VAT EXCLUDED, AS REIMBURSEMENT OF EXPENSES FOR THE PERFORMED VERIFICATION OF THE DEVICE AND/OR PRODUCT, FOR EACH DEVICE AND/OR PRODUCT FOR WHICH SAID INTERVENTION HAS BEEN REQUESTED.

**15.10.** THE SUPPLIER DOES NOT GRANT NOR ACKNOWLEDGE ANY WARRANTY CONCERNING SOFTWARE THAT IS NOT DIRECTLY DEVELOPED BY THE SUPPLIER ITSELF AND USED WITHIN THE SYSTEM (EITHER IN CLOUD OR ON THE DEVICES), AND ANY LIABILITY OF THE SUPPLIER IN THAT REGARD IS EXPRESSLY EXCLUDED, MEANING THAT THE CUSTOMER CAN, FOR SAID SOFTWARE, EXCLUSIVELY BENEFIT FROM THE WARRANTIES ISSUED BY THE THIRD-PARTY DEVELOPER, WHOSE IDENTIFYING DATA WILL BE COMMUNICATED BY THE SUPPLIER UPON CUSTOMER'S REQUEST.

**ART. 16. RETURN OF THE DEVICES AND/OR PRODUCTS – 16.1.** IN THE CASES REFERRED TO IN ART. 14.6. AND 15 OF THESE GENERAL TERMS AND CONDITIONS, THE RETURN OF THE DEVICE AND/OR PRODUCT SHALL BE CARRIED OUT AS FOLLOWS:

I) THE CUSTOMER WILL HAVE TO REQUEST TO THE SUPPLIER THE AUTHORIZATION TO RETURN THE DEVICE AND/OR PRODUCT BY COMPLETING AND SUBMITTING THE JIRA TICKET SERVICE REQUEST FORM, SPECIFICALLY STATING THE REASONS FOR THE RETURN;  
II) IN THE EVENT THAT FLAWS OR DEFECTS SHOULD NOT BE RESOLVED THROUGH E-MAIL NOTICE OR TELEPHONE CONTACT, THE SUPPLIER WILL COMMUNICATE TO THE CUSTOMER A RETURN AUTHORIZATION NUMBER (RAN) WHICH WILL BE EFFECTIVE FOR FIVE DAYS AFTER RELEASE AND WHICH MUST BE INDICATED ON THE TRANSPORT DOCUMENT AND THE PACKAGING AT THE TIME OF RETURN;  
III) THE CUSTOMER SHALL UNDERTAKE THE PROCESS OF RETURN OF THE DEVICE AND/OR PRODUCT AT ITS SOLE EXPENSE, WITHIN THE COMPULSORY TERM OF EFFECTIVENESS OF THE RETURN NUMBER (RAN), UNDER PENALTY OF FORFEITURE;  
IV) PRODUCT MUST BE RECEIVED INTACT AND IN THE SAME CONDITION AS WHEN IT WAS DELIVERED, WITH STICKERS, MARKINGS, LABELS AND ANYTHING ELSE ORIGINALLY AFFIXED BY THE SUPPLIER TO THE DEVICE AND/OR PRODUCT ITSELF AS WELL AS THE ORIGINAL PACKAGING AND ANY MANUALS AND/OR INSTRUCTION BOOKLETS THAT ARE PART OF THE PACKAGE AND THE ORIGINAL PACKAGING.

**16.2.** THE SUPPLIER SHALL HAVE THE RIGHT TO REFUSE THE RETURN OF THE DEVICE AND/OR PRODUCT IN THE FOLLOWING CASES:

- A) LACK OF RAN NUMBER;
- B) EXPIRY OF THE RETURN TERM (RAN);
- C) LACK OF PACKAGING OR TAMPERING WITH THE PACKAGING OF THE DEVICE AND/OR PRODUCT;
- D) IMPAIRMENT OR INCOMPLETENESS OF THE DEVICE AND/OR PRODUCT FROM ITS ORIGINAL STATE;
- E) INCONGRUENCES BETWEEN THE DEVICE AND/OR PRODUCT AND THE ORDER.

**16.3.** IN THE EVENT THAT THE DEVICE AND/OR PRODUCT RETURNED BY THE CUSTOMER CANNOT BE REPAIRED, THE SUPPLIER WILL PROMPTLY INFORM THE CUSTOMER BY WRITTEN NOTICE. 30 DAYS AFTER SUCH NOTICE, EVEN IN THE ABSENCE OF AN EXPRESS REQUEST BY THE CUSTOMER, AS WELL AS IN THE CASE OF SILENCE, IT IS THE LEGITIMATE RIGHT OF THE SUPPLIER TO PROCEED WITH THE FORCED RETURN OF THE DEVICE AND / OR PRODUCT NOT REPAIRABLE, WITH THE CUSTOMER BEING CHARGED THE SHIPPING COSTS.

**ART. 17. CLOUD SERVICE SUPPLY AND USE OF SIM CARDS. – 17.1.** THE SUPPLIER'S DEVICES ARE EQUIPPED WITH A PRE-INSTALLED AND PRE-CONFIGURED SIM CARD THAT CAN ALLOW THE IN CLOUD TRANSMISSION OF DATA COLLECTED BY THE DEVICE ITSELF. THE CUSTOMER UNDERTAKES (I) TO MAKE LAWFUL USE OF THE SIM CARDS, IN ACCORDANCE WITH THE PRIMARY AND SECONDARY REGULATIONS IN FORCE; (II) TO USE THEM ONLY IN THE TERRITORY AGREED IN WRITING WITH THE SUPPLIER, UNDER PENALTY OF NULLITY; (III) TO USE THEM ONLY AND EXCLUSIVELY WITHIN THE DEVICES PRODUCED BY THE SUPPLIER.

**17.2.** WHERE SPECIFIED IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE, THE LATTER AGREES TO PROVIDE THE CLOUD SERVICE ASSOCIATED WITH THE DEVICES PURCHASED WITH THE SAME ORDER OR IN SUBSEQUENT ACTS, TO BE CONSIDERED

SUPPLEMENTARY TO THE CONTRACT BETWEEN THE PARTIES. THE REQUEST FOR (AND IDENTIFICATION OF) SIM CARDS THAT IS ADDITIONAL TO THE FIRST AND THEIR IDENTIFICATION, WHERE NOT CONTAINED IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE, CAN ALSO BE MADE THROUGH PEC (CERTIFIED ELECTRONIC MAIL) AND ARE TO BE CONSIDERED SUPPLEMENTARY ACTS OF THE CONTRACT BETWEEN THE PARTIES, TO WHICH THESE GENERAL CONDITIONS OF CONTRACT FULLY APPLY.

**17.3.** THE CUSTOMER COMMITS TO GIVE THE SUPPLIER, FOR EACH DEVICE FOR WHICH IT USES THE CLOUD SERVICE, THE PRICE LISTED IN THE ORDER OR IN OTHER SUPPLEMENTARY DOCUMENTS OR, BY DEFAULT, THE SUM DETERMINED IN THE FARES APPLIED BY THE SUPPLIER OR DETERMINED ACCORDING TO THE COMMERCIAL PRACTICES OF THE SUPPLIER. LACKING A DIFFERENT INDICATION, TO BE DETERMINED AS ABOVE, THE FEE SHALL BE QUANTIFIED IN THE AMOUNT OF € 10.00 (TEN/00) / MONTH FOR EACH DEVICE, EXPENSES, TAXES AND OTHER ACCESSORIES THAT MAY BE PROVIDED FOR BY LAW EXCLUDED AS TO BE ALWAYS BORNE BY THE CUSTOMER.

**17.4.** THE DURATION OF SUPPLY OF THE CLOUD SERVICE IS SUBJECT TO THE SPECIFICATION CONTAINED IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE AND IS INTENDED TO BE TACITLY RENEWABLE UPON EXPIRATION FOR AN ADDITIONAL 12-MONTHS PERIOD. IN ANY CASE, THE PROVISIONS OF ARTICLE 21 OF THESE GENERAL CONDITIONS OF CONTRACT SHALL APPLY, ALSO WITH REGARD TO THE TERM OF THE FIRST EXPIRATION, TO THE PARTIES' NOTICE OF TERMINATION AND TO THE UNILATERAL RIGHT OF TERMINATION OF THE SUPPLIER.

**17.5.** THE CUSTOMER SHALL HOLD THE SUPPLIER HARMLESS FROM EVERY LIABILITY, ALSO STRICT OR AGGRAVATED, CONNECTED WITH THE POSSESSION AND USE OF THE SIM CARDS, BEARING EACH AND EVERY RISK AND LIABILITY FOR THEIR USE, INDEMNIFYING, AS OF NOW, THE SUPPLIER FROM ANY CLAIM FOR DAMAGE THAT THE LATTER SHOULD FILE TO THE CUSTOMER FOR THE USE OF SAID SIM CARDS, AS WELL AS FROM ANY LIABILITY IN CASE OF ABSENCE OR BLACKOUT OF THE SATELLITE AND/OR CELLULAR, EXPRESSLY WAIVING ANY RECOURSE AGAINST THE SUPPLIER FOR ANY DAMAGES, PATRIMONIAL AND NON-PATRIMONIAL, INCLUDING THOSE ARISING IN RELATION TO SUCH HYPOTHESES, AS WELL AS ANY INEFFICIENCY OF THE NETWORK.

**17.6.** IN THE EVENT THE SIM CARD DELIVERED TO THE CUSTOMER IS BLOCKED, THE LATTER SHALL RETURN IT TO THE SUPPLIER AS SOON AS POSSIBLE, TOGETHER WITH THE DEVICE IT IS CURRENTLY USED ON, IN ORDER TO ENABLE THE SUPPLIER ITSELF TO CARRY OUT THE PROCEDURE THAT IS NECESSARY TO UNLOCK THE SIM CARD OR, IF NEEDED, REPLACE IT OR RESET ITS REGULAR FEATURES. IT IS FORBIDDEN, FOR THE CUSTOMER, TO TAKE OUT THE SIM CARD FROM THE RELATED DEVICE. SHOULD THE CUSTOMER IGNORE SUCH PROHIBITION, WARRANTY OF THE DEVICE WILL BE INVALIDATED.

**17.7.** IN CASE OF THE TERMINATION OF THE USE OF THE CLOUD SERVICE, ON THE CUSTOMER'S SIDE, BEFORE THE EXPIRATION DATE FOR ONE OR MORE PURCHASED DEVICES, THE SUPPLIER IS NOT OBLIGED TO COMPENSATE THE ECONOMIC VALUE OF THE UNUSED MONTHS OF CLOUD SERVICE PROVISION. THE CUSTOMER ITSELF AGREES TO PAY THE SUPPLIER THE FULL AGREED AMOUNT FOR THE DURATION OF THE CONTRACT, UNTIL THE EXPIRATION DATE FOLLOWING THE PROMPT TERMINATION.

**17.8.** THE CUSTOMER CAN TERMINATE THE AUTOMATIC RENEWAL SERVICE OF THE CLOUD AND CONNECTIVITY SERVICE THROUGHOUT THE E-MAIL ADDRESS [rinnovi@kiwitron.it](mailto:rinnovi@kiwitron.it) BY IDENTIFYING THE SERIAL NUMBERS OF THE DEVICES AND SIMS INCLUDED THEREIN, NO LATER THAN 30 DAYS BEFORE THE EXPIRATION OF SAID SERVICE.

**17.9.** SHOULD THE SUPPLIER WITHDRAW FROM THE CLOUD SERVICE SUPPLY CONTRACT, AS PER ARTICLE 21.4 OF THESE GENERAL TERMS AND CONDITIONS, THE SUPPLIER WILL BE REQUIRED TO RETURN TO THE CUSTOMER ANY FEES ALREADY PAID FOR THE PERIODS AFTER THE EFFECTIVE DATE OF TERMINATION, ANY OTHER AMOUNT BEING EXCLUDED.

**17.10.** IN CASE OF NON-PERFORMANCE (EVEN PARTIAL) OF THE PAYMENT OBLIGATIONS RELATING TO WHAT IS PROVIDED FOR IN THE PREVIOUS ARTICLE 17.3. OR NON-FULFILLMENT OF EVEN ONLY ONE OF THE OBLIGATIONS REFERRED TO IN THE PREVIOUS ARTICLE 17.1., SUB (I), (II), (III) OR, AGAIN, OF THE OBLIGATIONS OF CONFIDENTIALITY OF THE PIN AND PUK CODES OF THE SIM CARDS, THE CONTRACT FOR THE SUPPLY OF THE CLOUD SERVICE WILL BE CONSIDERED AUTOMATICALLY TERMINATED BY RIGHT, PURSUANT TO ARTICLE 1456 OF THE ITALIAN CIVIL CODE. THE TERMINATION WILL APPLY (AND WILL BE EFFECTIVE) FROM THE MOMENT THE CUSTOMER RECEIVES THE COMMUNICATION FROM THE SUPPLIER IN WHICH THE LATTER DECLARES THAT IT WISHES TO AVAIL ITSELF OF THIS EXPRESS TERMINATION CLAUSE.

## SECTION IV. – FEE AND DURATION

**Art. 18. PRICE AND FEE. – 18.1.** THE CUSTOMER IS REQUIRED TO PAY, FOR THE PROVISION OF THE MAIN AND ANCILLARY SERVICES, AS WELL AS DEVICES AND/OR PRODUCTS, INCLUDING SIM CARDS, CONTEMPLATED IN THE ORDER SUBMITTED BY THE CUSTOMER AND APPROVED FOR ACCEPTANCE BY THE SUPPLIER OR IN OTHER ACTS SUPPLEMENTARY TO THE CONTRACT, THE PRICE OR CONSIDERATION DETERMINED IN THE ORDER ITSELF OR IN THE COMMERCIAL OFFER OR, LACKING SUCH INDICATIONS, IN THE PREVAILING RATES APPLIED BY THE SUPPLIER OR ACCORDING TO THE LATTER'S COMMERCIAL CUSTOMS.

**18.2.** FURTHER ENTRIES OF COST, EXPENDITURE, OR IN ANY OTHER CAPACITY PROVIDED FOR IN THESE GENERAL TERMS AND CONDITIONS – WHERE APPLICABLE: E.G.: TRANSPORTATION AND DELIVERY COSTS RELATED TO THE SALE OF DEVICES AND/OR PRODUCTS, AS PER ARTICLE 13.3; EXPENSES COVERING THE HANDLING OF THE INVOICE FOR SMALL AMOUNTS OF MONEY, AS FOR ARTICLE 18.7 – ARE, IN ANY CASE, DUE.

**18.3.** THE PRICES DISPLAYED, AS WELL AS THOSE BEING IN ANY CASE APPLICABLE, ARE EXCLUSIVE OF VAT AND ANY OTHER TAXES AND/OR FEES OWED BY THE CUSTOMER. IT IS THE CUSTOMER'S RESPONSIBILITY TO REPORT AND DOCUMENT ANY CAUSES OF EXEMPTION, REDUCTION OR DIVERSIFICATION OF THE VAT RATE THAN THAT NORMALLY CHARGED BY LAW.

**18.4.** UNLESS OTHERWISE AGREED BETWEEN THE PARTIES, TO BE MADE IN WRITING UNDER PENALTY OF NULLITY, THE AGREED PRICE FOR THE FEE-BASED SERVICES IS SUBJECT TO AUTOMATIC ANNUAL REVISION, BASED ON THE ISTAT INDEX (UPWARD CHANGE IN THE ISTAT COST OF LIVING INDEX FOR BLUE- AND WHITE-COLLAR HOUSEHOLDS). AUTOMATIC REVISION OF THE AGREED FEE DOES NOT CONSTITUTE A CHANGE IN PRICE WITHIN THE MEANING OF ARTICLE 6 ("JUS VARIANDI AND WITHDRAWAL") OF THESE GENERAL TERMS AND CONDITIONS.

**18.5.** POSSIBLE UPWARD OR DOWNWARD CHANGES IN THE AGREED PRICE RELATED TO CONTINUOUS OR PERIODIC PERFORMANCE CAN BE DETERMINED BY THE SUPPLIER ACCORDING TO ARTICLE 6 («JUS VARIANDI AND TERMINATION»), REGARDLESS OF THE ISTAT INDEX, WITHOUT ANY PREJUDICE TO THE CUSTOMER'S RIGHT TO WITHDRAW FROM THE CONTRACT PURSUANT TO SAID ARTICLE.

**18.6.** THE PAYMENT OF THE PRICE AND/OR FEE FOR THE SUPPLY OF SERVICES AND/OR DEVICE OR OTHER PRODUCTS SHALL BE CARRIED OUT AT THE SUPPLIER'S PREMISES WITHIN THE MEANING OF THE ABOVE ARTICLE 1, IN THE MANNER SPECIFIED IN THE INVOICE, WITHOUT ANY EXCEPTION, UNLESS OTHERWISE AGREED TO IN WRITING UNDER PENALTY OF NULLITY.

**18.7.** SHOULD THE INVOICE AMOUNT TO LESS THAN EURO 100,00 (REFERRING TO THE NET GOODS OR SERVICE, EXCLUDING VAT AND ANY ADDITIONAL COSTS), THE CUSTOMER SHALL PAY TO THE SUPPLIER THE SUM OF 10.00 EUROS PLUS VAT AS REIMBURSEMENT OF EXPENSES TO COVER ITS MANAGEMENT.

**18.8.** THE CUSTOMER IS PROHIBITED FROM MAKING OFFSETS, DEDUCTIONS OR EXTENSIONS OF PAYMENT, WHETHER OR NOT RELATED TO A DISPUTE OR ANY CLAIM WHATSOEVER. ALONG WITH THE PLACING OF THE ORDER AND THE CONCLUSION OF THE CONTRACT BETWEEN THE PARTIES, THE CUSTOMER ALSO WAIVES THE RIGHT TO ASSERT ANY LEGAL SET-OFF BETWEEN THE PARTIES, SHOULD THE CASE ARISE.

**Art. 19. PAYMENT AND INTERESTS. EXPRESS TERMINATION CLAUSE. – 19.1.** THE CUSTOMER COMMITS TO PERFORM ALL OF THE DUE PAYMENTS WITH THE MANNER AND WITHIN THE TERMS INDICATED IN THE INVOICE OR IN THE COMMERCIAL OFFER OR IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE.

**19.2.** IN THE EVENT OF DELAYED PAYMENT ON THE CUSTOMER'S SIDE, THE DEFAULT RATES DETERMINED BY VIRTUE OF LEGISLATIVE DECREE NO. 231/2002, ISSUED IN IMPLEMENTATION OF DIRECTIVE 2000/35/CE, AS FURTHER AMENDED AND SUPPLEMENTED, WILL APPLY, AS BY LAW.

**19.3.** IN THE EVENT OF DELAYED PAYMENT (OR LACK THEREOF) OF ANY AMOUNT, DUE AS PRINCIPAL OR INTEREST, BY THE CUSTOMER,

THE SUPPLIER HAS THE RIGHT TO SUSPEND OR INTERRUPT THE DELIVERY OF ITS PERFORMANCE, DUE TO THE CUSTOMER'S FAILURE TO PERFORM, EITHER IN WHOLE OR IN PART.

**19.4.** REGARDLESS, THE DELAYED PAYMENT OR LACK THEREOF BY THE CUSTOMER EVEN OF A SINGLE INVOICE OR PART OF THE TOTAL AMOUNT DISPLAYED IN AN INVOICE (IF SAID INVOICE PERTAINS TO DIFFERENT DEVICES AND/OR PRODUCTS AND/OR SERVICES) WITHIN THE SCHEDULED DATE, CONSTITUTES A MAJOR BREACH AND ENTAILS THE AUTOMATIC TERMINATION OF THE CONTRACT, WHICH MAY BE ENFORCED BY THE SUPPLIER BY AN IMMEDIATELY EFFECTIVE WRITTEN NOTICE, PURSUANT TO ARTICLE 1456 OF THE ITALIAN CIVIL CODE.

**19.5.** THE SUPPLIER MAY STILL BE ABLE TO WITHDRAW FROM THE CONTRACT WITHOUT PRIOR NOTICE IF ONE OF THE FOLLOWING OCCURS: A) CUSTOMER'S STATE OF INSOLVENCY OR CRISIS; B) CUSTOMER'S STATUS OF VOLUNTARY WINDING UP; C) SUBSTANTIAL CHANGE IN THE CUSTOMER'S ASSET CONDITIONS SUCH AS TO HAMPER AND ENDANGER THE ATTAINMENT OF THE COUNTER-PERFORMANCE (E.G., SUBJECTION TO GARNISHMENT FOR SIGNIFICANT AMOUNTS OF MONEY, STATE OF INSOLVENCY, RAISING OF DEBT CLAIMS AGAINST IT, ETC.). THE NOTICE OF TERMINATION SHALL BE EFFECTIVE AS OF THE DATE OF ITS RECEIPT AT THE GEOGRAPHIC OR ELECTRONIC ADDRESS OF THE RECIPIENT.

**19.6.** IN THE EVENT OF FAILURE TO PERFORM ITS SERVICES, AS PER ASSUMPTIONS PROVIDED FOR IN ARTICLES 19.4. AND 19.5. ABOVE, THE CUSTOMER SHALL BE OBLIGED TO PAY TO THE SUPPLIER, AS A PENALTY AND, IN ANY CASE, WITHOUT PREJUDICE TO THE GREATER DAMAGE, A SUM EQUAL TO 30% OF THE SELLING PRICE OF THE DEVICE AND/OR PRODUCT, OR 30% OF THE ANNUAL FEE FOR THE REQUESTED FEE-BASED SERVICES OR 30% OF THE PRICE OF THE SERVICES ON A PER-CASE BASIS, IF DIFFERENT FROM THE FEE-BASED SERVICES.

**ART. 20. SOLVE ET REPETE. – 20.1.** IT IS, IN ANY CASE, EXPLICITLY FORBIDDEN FOR THE CUSTOMER, ALSO PURSUANT TO ARTICLE 1462 OF THE ITALIAN CIVIL CODE, TO DELAY OR SUSPEND THE PAYMENT OF THE OF AMOUNTS CONTRACTUALLY DUE AS CONSIDERATION, INCLUDING IN THE EVENT THAT IT INTENDS TO MAKE DISPUTES OR RAISE EXCEPTIONS REGARDING THE PERFORMANCE OF THE CONTRACT BY THE SUPPLIER, INCLUDING DISPUTES RELATING TO ANY MALFUNCTIONS OR DEFAULTS IN WHOLE OR IN PART OR TO THE QUANTITY AND QUALITY OF THE GOODS AND SERVICES PROVIDED.

**ART. 21. DURATION. – 21.1.** UNLESS OTHERWISE EXPLICITLY STATED IN THE ORDER SUBMITTED BY THE CUSTOMER AND APPROVED BY THE SUPPLIER FOR ACCEPTANCE, THE SERVICES PROVIDED FOR ON A TEMPORARY BASIS, RENEWABLE FROM TIME TO TIME (SO CALLED PERIODIC FEE-BASED SERVICES) – SUCH AS MAIN SERVICES, CLOUD ACCESS AND SIM CARD CONNECTIVITY SERVICE, HELP DESK AND TECHNICAL SUPPORT SERVICE, BACKUP SERVICE, AND SO ON – HAVE A ONE-YEAR DURATION AND WILL BE TACITLY RENEWED ON A YEARLY BASIS, UNLESS CANCELED THROUGH E-MAIL OR CERTIFIED E-MAIL AT LEAST 30 DAYS BEFORE THE ORIGINAL OR UPDATED DUE DATE. SHOULD THE CANCELLATION BE NOTICED AFTER SAID PERIOD HAS ELAPSED, IT WILL BE DEEMED TO BE SENT BY THE NEXT YEARLY DUE DATE.

**21.2.** AS TO THE CONTRACTS RELATING TO THE FEE-BASED SERVICES, CLOUD ACCESS AND SIM CARD CONNECTIVITY TO BE INCLUDED, THE PARTIES AGREE THAT THE FIRST DUE DATE IS SCHEDULED AT THE TIME OF PURCHASE, WITH A MINIMUM DURATION OF 12 MONTHS UPON ACTIVATION, TO WHICH, IN CASE OF RENEWAL, YEARLY PERIODS WILL FOLLOW, UNLESS EXPLICIT DIFFERENT REQUEST COMING FROM THE CUSTOMER TO BE AGREED UPON IN WRITING WITH THE SUPPLIER.

**21.3.** AS TO THE SERVICES OTHER THAN THE FEE-BASED ONES, THE DURATION OF THE CONTRACT IS THE ONE MENTIONED IN THE ORDER SUBMITTED BY THE CUSTOMER AND APPROVED BY THE SUPPLIER FOR ACCEPTANCE OR INDICATED BY THE NATURE OF THE DEAL OR THE LEGAL-ECONOMIC TRANSACTION. IN PARTICULAR, IN ABSENCE OF SPECIFICATION OF THE DURATION, THE SAME SHALL BE EQUAL TO THAT USUALLY USEFUL FOR THE PERFORMANCE OF THE REQUESTED SERVICE(S).

**21.4.** WHERE THE CONTRACT BETWEEN THE PARTIES RELATES TO SERVICES PROVIDED FOR ON AN ONGOING BASIS, THE SUPPLIER HAS, IN ANY CASE, THE RIGHT TO TERMINATE THE CONTRACT *AD NUTUM*, UPON COMMUNICATION TO THE CUSTOMER WITH 30 DAYS' NOTICE, IN THE MANNER PROVIDED FOR IN ARTICLE 28.

**21.5.** WHERE, ON THE OTHER HAND, THE ORDER ENTAILS THE SALE OF DEVICES AND/OR PRODUCTS, THE PURCHASED GOOD IS DEEMED

TO BE TRANSFERRED TO THE CUSTOMER'S OWNERSHIP AT THE TIME OF ITS DELIVERY, SUBJECT TO ANY RESERVATION OF ACCEPTANCE FOLLOWING THE COMPLETION OF THE TRIAL PERIOD, WHERE THIS IS EXPRESSLY PROVIDED FOR IN THE SAME ORDER APPROVED BY THE SUPPLIER. THE PARTIES MAY, IN ANY EVENT, PROVIDE FOR THE SUPPLY OF THE GOODS (DEVICES AND/OR PRODUCTS) TO TAKE PLACE IN A TITLE OTHER THAN SALE (E.G. LEASE OR LOAN FOR USE), PROVIDED THAT THIS IS EXPRESSLY STATED IN THE CUSTOMER'S ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE. MISSING SAID EXPLICATION, THE DEVICE AND/OR PRODUCT SHALL BE SUPPLIED FOR SALE, AT THE PRICE INDICATED IN THE COMMERCIAL OFFER, IN THE ORDER APPROVED BY THE SUPPLIER OR, IN DEFAULT, ACCORDING TO THE SUPPLIER'S OWN COMMERCIAL USAGE OR UPDATED PRICE LISTS.

**21.6.** IN THE CASE OF PURCHASE OF DEVICES AND/OR PRODUCTS INVOLVING SOFTWARE THAT IS EITHER INSTALLED OR TO BE INSTALLED, SAID SOFTWARE IS INTENDED TO BE PROVIDED UNDER AN "AS-IS", 20-YEAR FREE USE LICENSE, FOR THE SOLE PURCHASED DEVICE AND/OR PRODUCT AND TACITLY RENEWABLE FOR PERIODS OF EQUAL LENGTH, UNLESS CANCELLED OR WITHDRAWN. THE SUPPLIER STILL HOLDS THE CHOICE TO RELEASE SAID SOFTWARE FOR CONSIDERATION OR WITH A FREQUENCY OTHER THAN 20 YEARS, IF LISTED IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE. IN THE CASE OF LACK OF RENEWAL OF THE USE LICENSE OR FOLLOWING ITS CANCELLATION FOR ANY REASON, THE CUSTOMER IS OBLIGED TO PERMANENTLY DELETE (AND MAKE DELETE) THE SOFTWARE FROM THE DEVICE AND/OR PRODUCT, ALONG WITH PERMANENTLY DELETING EVERY COPY THAT HAS POSSIBLY BEEN MADE IN THE CASES PERMITTED BY THE LAW.

## **SECTION V. – INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS, KNOW-HOW AND PERSONAL DATA PROTECTION**

**ART. 22. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS – 22.1.** EVERY PRODUCT HANDLED BY THE SUPPLIER, AS A WHOLE AND IN EACH PART, EVERY TRADEMARK AND DISTINCTIVE SIGN RELATED TO THE SERVICES AND/OR DEVICES AND/OR PRODUCTS CONSTITUTE INTELLECTUAL AND/OR INDUSTRIAL PROPERTY OF THE SUPPLIER OR OF ITS THIRD-PARTY SUPPLIERS.

**22.2.** IT IS UNDERSTOOD THAT THE SUPPLIER MAY NOT OWN THE SOFTWARE THAT IT DELIVERS AND THAT, IN SUCH CASE, SAID SOFTWARE ARE LICENSED OR SUBJECT TO ANOTHER AGREEMENT BETWEEN THE SUPPLIER AND THE THIRD-PARTY SUPPLIER AND/OR THE RIGHTHOLDER.

**22.3.** THE CUSTOMER COMMITS TO RESPECT SAID RIGHTS AND ENSURE THEY ARE RESPECTED AND MAKE USE OF THE SERVICES AND DEVICES AND/OR PRODUCTS IN COMPLIANCE WITH THE CONTRACT, THE LICENSES AND THE APPLICABLE LEGISLATION. THE CUSTOMER ACKNOWLEDGES AND DECLARES, BY ACCEPTING THE CONTRACT, NOT TO CLAIM, IN CONNECTION WITH THE SERVICES, SOFTWARE, DEVICES AND/OR PRODUCTS AND DOCUMENTATION USED IN THE CONTRACTUAL RELATIONSHIP ESTABLISHED AND ENTERED INTO WITH THE SUPPLIER, ANY RIGHTS TO THE SUPPLIER'S TRADEMARKS NOR TO ANY OTHER INTELLECTUAL AND/OR INDUSTRIAL PROPERTY RIGHTS (INCLUDING, BUT NOT LIMITED TO, INVENTIONS, PATENTS, KNOW-HOW RELATING TO ANY PRODUCT, PROCESS, METHOD, MACHINE OR DEVICE, TRADE SECRETS, SOFTWARE, DISTINCTIVE MARKS, PROGRAMS, DATA AND DATABASES).

**22.4.** THE CUSTOMER GIVES ITS CONSENT TO THE USE, BY THE SUPPLIER AND TO ITS SOLE DISCRETION AND TO NO CONSIDERATION OR MONETARY REQUEST IN FAVOR OF THE CUSTOMER, OF ITS NAME OR COMPANY NAME AND/OR LOGO AND/OR BRIEF EXPLANATION OF ITS ACTIVITIES, TO BE REGISTERED, BY THE SAME SUPPLIER, AMONG ITS CLIENTS AND/OR PROJECTS, ALONG WITH THE POSSIBILITY, FOR THE SUPPLIER, TO COMMUNICATE IT AND/OR DISCLOSE IT TO THIRD PARTIES, POSSIBLY ALSO ON ITS WEBSITE, SOCIAL NETWORKS OR OTHER COMMUNICATION MEANS (POTENTIALLY INCLUDING BOOKS, DEPLIANTS OR BROCHURES).

### **ART. 23. CONFIDENTIALITY AND KNOW-HOW. NON-COMPETITION. – 23.1.**

THE CUSTOMER COMMITS TO MAINTAIN SECRECY ON ALL OF THE CONFIDENTIAL INFORMATION (INCLUDING, BUT NOT LIMITED TO, TRADE AND MARKETING INFORMATION, INFORMATION RELATED TO PRICES OF PRODUCTS OR DEVICES AND PERFORMANCES, TECHNICAL INFORMATION, KNOW-HOW, PLANS AND INFORMATION REGARDING THE CUSTOMERS' NECESSITIES, DATA, DOCUMENTS, OPERATING MANUALS, PROCESSES, METHODS, CONTRACTUAL CONDITIONS THAT ARE EXCLUSIVE TO CUSTOMERS, AGREEMENTS, LICENSES, PROGRAMS AND ANY OTHER INFORMATION PROVIDED BY THE SUPPLIER EITHER ORALLY OR THROUGH MAGNETIC, OPTICAL

**23.2.** THE CUSTOMER ALSO UNDERTAKES TO REQUEST EQUAL COMMITMENT FROM ITS EMPLOYEES, ITS COLLABORATORS AND OTHERS POSSIBLY HAVING ACCESS TO THE SERVICES AND/OR DEVICES AND PRODUCTS PROVIDED IN CONNECTION WITH THE CONTRACT OR ILLUSTRATED AND GRANTED FOR VIEWING OR TESTING, ALSO FOR THE PURPOSE OF ASSESSING THEIR LIKING, BEFORE THE CONCLUSION OF THE CONTRACT. THIS PROVISION SHALL REMAIN VALID AND BINDING EVEN ONCE THE CONTRACTUAL OBLIGATION HAS BEEN TERMINATED OR IN THE EVENT OF ITS NON-ESTABLISHMENT.

**23.3.** IT IS ALSO EXPLICITLY FORBIDDEN FOR THE CUSTOMER TO DIRECTLY OR INDIRECTLY ENGAGE IN COMPETITIVE PRACTICES THAT MAY BE DETRIMENTAL TO THE SUPPLIER DURING THE ENTIRE TERM OF THE CONTRACT AND IN THE FIVE YEARS FOLLOWING ITS TERMINATION FOR ANY REASON WHATSOEVER. THE CUSTOMER ALSO UNDERTAKES, FOR THE SAME TIME, NOT TO EMPLOY ANY EMPLOYEE OF THE SUPPLIER AND NOT TO ENTER INTO CONTRACTS WITH COLLABORATORS OF THE SUPPLIER, WITHOUT HAVING OBTAINED WRITTEN AUTHORIZATION FROM THE LATTER. THE AGREED PRICES ALREADY TAKE INTO ACCOUNT THE CONTENT OF THIS PROVISION.

**ART. 24. PERSONAL DATA PROTECTION. – 24.1.** WITHOUT ANY PREJUDICE TO WHAT IS PROVIDED FOR BY THE FOLLOWING ARTICLE 24.7, THE CUSTOMER (HEREINAFTER REFERRED TO AS «CONTROLLER») IS THE SOLE PERSONAL DATA CONTROLLER, ALSO WHEN THEY ARE SUBMITTED BY THIRD PARTIES, THAT ARE SAVED, PROCESSED AND OTHERWISE TREATED THROUGH THE MAIN AND ADDITIONAL SERVICES, AS WELL AS THROUGH THE SUPPLIED DEVICES AND/OR PRODUCTS, AS THE CUSTOMER IS THE ONLY SUBJECT ENTITLED TO MAKE DECISIONS CONCERNING THE PURPOSES AND MEANS OF THE PROCESSING OF SUCH PERSONAL DATA (INCLUDING AS REGARDS THE SECURITY THEREOF), AS WELL AS CONCERNING THE TOOLS TO BE USED THAT ARE CONTRACTUALLY REQUESTED TO THE SUPPLIER. THE CUSTOMER IS AWARE THAT THE SUPPLIER, BY THE MEANS OF THE AGREEMENT OF SUPPLY OF SERVICES AND/OR DEVICES AND/OR PRODUCTS, SIM CARDS INCLUDED, ONLY MAKES AVAILABLE TO THE CUSTOMER AND TO PRESERVE, AS FAR AS POSSIBLE, THE FULL CAPACITY OF THE IT RESOURCES THAT ARE USED BY THE CUSTOMER AUTONOMOUSLY AND UNDER ITS OWN DIRECT LIABILITY FOR THE PURPOSES OF PROCESSING OF PERSONAL DATA OF WHICH HE IS THE CONTROLLER, WITHIN THE LIMITS INDICATED IN THE AGREEMENT BETWEEN THE PARTIES. STORAGE OPERATIONS, AS WELL AS ANY OTHER OPERATION OF PROCESSING OF SAID DATA, ARE THEN CARRIED OUT BY THE CUSTOMER BY THE MEANS OF SUCH RESOURCES AND, FOR THE PURPOSES OF THE PERSONAL DATA PROTECTION REGULATION, SHALL NOT BE REGARDED TO AS BEING CARRIED OUT BY THE SUPPLIER, WITH THE SOLE EXCEPTION OF THE PROVISIONS SET FORTH IN THE FOLLOWING ARTICLE 24.4.

**24.2.** AS TO SAID PROCESSING, THE CUSTOMER COMMITS TO COMPLY WITH ALL THE UNDERTAKINGS AS SET FORTH IN THE APPLICABLE LEGISLATION CONCERNING THE PROCESSING OF PERSONAL DATA, UNDERTAKING ALL THE RELATED DUTIES AND RESPONSIBILITIES, RELIEVING THE SUPPLIER FROM ANY RESPONSIBILITY, DISPUTE, CLAIM ETC. POSSIBLY COMING FROM THIRD PARTIES, EITHER PUBLIC OR PRIVATE, REGARDING SUCH PROCESSING.

**24.3.** WITH REGARD TO SECURITY, THE CUSTOMER ACKNOWLEDGES THAT THE MAIN, STORAGE, BACKUP AND REMOTE SUPPORT SERVICE PROVIDED BY THE SUPPLIER ARE DELIVERED THROUGH A CLOUD INFRASTRUCTURE BUILT AT A WEBFARM LOCATED IN ITALY OR, OTHERWISE, IN THE EU AND MANAGED BY THIRD PARTY SUPPLIERS THAT, WHILE DELIVERING THE SERVICE, COMMITTED TO ADOPTING HIGH SECURITY STANDARDS, COMPLIANT WITH THE INDUSTRY PRACTICE. AT ANY TIME, THE CUSTOMER MAY ACKNOWLEDGE THE UPDATE OF SAID SECURITY MEASURES AND CARRY OUT INSPECTION VISITS TO CHECK THE THIRD-PARTY SUPPLIERS' WEBFARM FOR ITSELF, AFTER COVERING THE NECESSARY COSTS THAT INCLUDE THE TRAVEL AND TRANSPORTATION EXPENSES AS WELL AS THE DAILY FARE OF THE PERSONNEL APPOINTED BY THE SUPPLIER TO CARRY OUT THE INSPECTION TOGETHER WITH THE CUSTOMER, WHICH WILL BE SET OUT IN A SEPARATE INVOICE DUE ON SIGHT OR, OTHERWISE, IN THE FIRST USEFUL INVOICE.

**24.4.** WITHOUT ANY PREJUDICE TO THE PROVISIONS SET OUT IN THE PARAGRAPHS ABOVE, WITHIN THE LIMITS OF THIS AGREEMENT, THE SUPPLIER MAY BE REQUIRED TO CARRY OUT SOME ACTIVITIES AND/OR OPERATIONS ON DATA SUBJECT TO PROCESSING, UPON REQUEST OF THE CUSTOMER AS EXCLUSIVE PERSONAL DATA CONTROLLER. IF SO, THE CUSTOMER SHALL CONCLUDE, TOGETHER WITH THE CONCLUSION OF THE AGREEMENT OF SUPPLY OF THE SERVICES PROVIDED FOR IN THESE GENERAL TERMS AND CONDITIONS AND IN ITS CAPACITY OF EXCLUSIVE DATA CONTROLLER, WITHOUT PREJUDICE TO THE PROVISIONS SET OUT IN THE FOLLOWING ARTICLE 24.7, A CONTRACT OF DESIGNATION OF THE SUPPLIER PURSUANT TO AND FOR THE PURPOSES OF ART. 4, PARA. 1, NO. 8) AND ART. 28 OF

REGULATION (EU) 679/2016, AS AN "EXTERNAL PROCESSOR" FOR THE PROCESSING OF THE CUSTOMER'S PERSONAL DATA, WITH RESPECT TO THE AFOREMENTIONED ACTIVITIES AND/OR OPERATIONS OF A TECHNICAL NATURE, IN THE EVENT THAT THEY AFFECT PERSONAL DATA.

**24.5.** IN TURN, THE CONTROLLER COMMITS TO COMPLY WITH THE FOLLOWING: (A) TO PERFORM ALL OF THE DUTIES PROVIDED FOR BY THE LEGISLATION ON THE PROCESSING OF PERSONAL DATA, INCLUDING THE RELEASE OF THE NOTICE, THE GATHERING OF CONSENT, THE NOTIFICATION TO THE DATA PROTECTION COMMISSIONER, IF NECESSARY, OR THE ACQUISITION OF AUTHORIZATION TO THE PROCESSING OF SENSITIVE DATA, WHERE NOT GIVEN AS A GENERAL AUTHORIZATION, TO ACTIVATE THE SECURITY MEASURES ENVISAGED BY THE APPLICABLE LEGISLATION, INCLUDING THOSE RELATING TO THE SUPPLEMENTARY BACKUP COPIES MENTIONED UNDER ARTICLE 12.3 OF THESE GENERAL TERMS AND CONDITIONS, UNLESS OTHERWISE AGREED; (B) TO RELEASE, GUARANTEE AND INDEMNIFY THE PERSON IN CHARGE FOR WHAT HE IS ENTITLED TO PAY, AT ANY TITLE, AS A CONSEQUENCE OF ANY LACK IN THE PERFORMANCE OF THE DUTIES ABOVE MENTIONED, DUE TO THE EXCLUSIVE CONTROLLER OR THROUGH DATA PROCESSORS OTHER THAN THE SUPPLIER ITSELF; (C) TO GUARANTEE THE FULFILMENTS AND DUTIES TOWARDS THE CONTROL AUTHORITY (AS TO ITALY, THE *GARANTE PER LA PROTEZIONE DEI DATI PERSONALI*).

**24.6.** WITH REGARD TO ALL OF THE OPERATIONS OUTSIDE THE SCOPE OF PERSONAL DATA PROCESSING AS PER THE PREVIOUS PARAGRAPHS OF THIS ARTICLE, THE SUPPLIER IS THE CONTROLLER OF PERSONAL DATA RELATED TO THE CARRYING OUT OF BUSINESS ACTIVITIES, TO THE EXTENT TO WHICH THIS APPLIES TO CUSTOMER RELATIONS (WITH REGARD TO, E.G., IDENTIFYING AND CONTACT DATA IN BOTH CASES OF A ONE-MAN BUSINESS OR THE LEGAL REPRESENTATIVE OF THE CUSTOMER, SHOULD THE LATTER BE A COMPANY, ETC.).

**24.7.** SHOULD THE CUSTOMER BE GIVEN THE OPTION OF GIVING ITS CUSTOMERS – OR TO THE CUSTOMERS OF ITS CUSTOMERS – ACCESS TO THE MAIN AND ADDITIONAL SERVICES ALONG WITH THE USE OF THE SOFTWARE IN CLOUD COMPUTING AND SAAS MODE, THE DEVICE OR OTHER PRODUCTS, INCLUDING SIM CARDS, SAID CUSTOMER, IF NOT THE CONTROLLER ITSELF, COMMITS, WITHIN THE LIMITS STATED ABOVE, TO GET THE SUPPLIER APPOINTED AS THE DATA PROCESSOR EITHER BY THE ACTUAL CONTROLLER OR, IN THE EVENT THE CUSTOMER ACTS AS A DATA PROCESSOR DUE TO HAVING BEEN APPOINTED AS SUCH BY ANOTHER CONTROLLER, THE CUSTOMER COMMITS TO APPOINT THE SUPPLIER AS AN ADDITIONAL PROCESSOR OR AS A SUB-PROCESSOR, IN COMPLIANCE WITH ARTICLE 28, EU REGULATION N. 679/2016.

**24.8.** IN THE CASE OF THE FAILURE TO PERFORM BY THE CUSTOMER, INACTIVITY OR NON-COMPLIANCE WITH THE PROVISIONS LISTED IN ARTICLE 24.7 ABOVE, THE CUSTOMER INDEMNIFIES AND HOLDS THE SUPPLIER HARMLESS FOR ANY SUM IT SHOULD OWE TO THIRD PARTIES, TO ANY TITLE (INCLUDING COMPENSATION AND PENALTY).

## SECTION VI. – FINAL PROVISIONS

**Art. 25. LIABILITY. – 25.1.** THE SUPPLIER IS NOT LIABLE FOR (A) ANY ECONOMIC LOSSES TO THE CUSTOMER OR THIRD PARTIES – ALSO WITH REGARD TO, AMONG OTHERS, LOSS OF PROFITS, EXPENSES FOR BUSINESS RESTORATION, LIABILITY TO THIRD PARTIES, LOSS OF DATA ALSO RESULTING FROM FAILURE OF THE CUSTOMER TO KEEP COMPLETE AND UP-TO-DATE BACK-UP COPIES, AMOUNTS TO BE DISBURSED FOR ANY REASON TO THIRD PARTIES – CONSEQUENTIAL TO BUSINESS INTERRUPTIONS OR MALFUNCTIONS OR OTHER DETRIMENTAL EVENTS RESULTING FROM THE PROVISION OR NON-PROVISION OF THE MAIN AND ADDITIONAL SERVICES, DEVICES AND/OR PRODUCTS, REFERRED TO IN THE CONTRACT CONCLUDED BETWEEN THE PARTIES, INCLUDING SIM CARDS, AND SOFTWARE PROVIDED ALONG WITH THE SERVICES AND DEVICES, AS WELL AS (B) OF ANY ECONOMIC LOSSES OF THE CUSTOMER OR THIRD PARTIES HOWEVER INCURRED AS A CONSEQUENCE OF OR IN CONNECTION WITH THE PROVISION OR NON-PROVISION OF THE MAIN AND ADDITIONAL SERVICES, DEVICES AND/OR PRODUCTS, ALL UP TO THE LIMIT OF WILFUL MISCONDUCT OR GROSS NEGLIGENCE, AS PROVIDED BY LAW.

**25.2.** THE CUSTOMER COMMITS TO MAKE LAWFUL USE OF THE MAIN AND ADDITIONAL SERVICES, THE CLOUD COMPUTING-BASED SOFTWARE AND THE DEVICES AND/OR PRODUCTS, INCLUDING SIM CARDS, SUBJECT TO THE CONTRACT BETWEEN THE PARTIES, AND TO ASSESS AND ENSURE THAT ITS EMPLOYEES, ASSOCIATES AND/OR USERS OR OTHER THIRD PARTIES, TO WHICH THE ACCESS AND THE USE OF SAID SERVICES, SOFTWARE AND PRODUCTS SHOULD BE GRANTED, INSOFAR AS IT IS ALLOWED BY THE CONTRACT, INCLUDING THE CUSTOMERS OF THE CUSTOMER, WHERE SPECIFIED IN THE ORDER APPROVED BY THE SUPPLIER FOR ACCEPTANCE, ALSO MAKE LAWFUL

USE OF SUCH SERVICES, SOFTWARE, DEVICES AND/OR PRODUCTS, IN COMPLIANCE WITH THE CLAUSES OF THIS CONTRACT AND WITH ALL OF THE NORMS THAT ARE CURRENTLY INTO FORCE IN THE ITALIAN LEGAL SYSTEM (INCLUDING THOSE CONCERNING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS AND PERSONAL DATA PROTECTION), AS WELL AS INTERNATIONALLY, SHOULD THE BUSINESS UNDERTAKEN BY THE CUSTOMER AND INVOLVING THE SUPPLY AS PER THE CONTRACT HAVE AN INTERNATIONAL SCOPE.

**25.3.** THE CUSTOMER IS THE SOLE ENTITY LIABLE FOR THE USE OF SERVICES, DEVICES, PRODUCTS, SIM CARDS AND SOFTWARE SUBJECT TO THE CONTRACT AS AGREED BY THE PARTIES. THE CUSTOMER IS ALSO THE ONE AND ONLY RESPONSIBLE FOR THE CONTENT AND DATA EITHER UPLOADED AND/OR HOSTED OR, IN ANY CASE, PROCESSED WITHIN THE SCOPE OF THE SERVICES PROVIDED AND THE MEMORY UNITS EXCLUSIVE TO THE CUSTOMER FOR THE PURPOSES OF PERFORMANCE OF THE CONTRACT.

**25.4.** ANY LIABILITY OF THE SUPPLIER, EITHER CONTRACTUAL OR NON-CONTRACTUAL AND UP TO GROSS NEGLIGENCE AND WILFUL MISCONDUCT IS, IN ANY CASE, EXCLUDED FOR ALL MONETARY AND MORAL DAMAGES POSSIBLY SUFFERED BY THE CUSTOMER WITH REGARD TO THE USE (OR LACK THEREOF) BY THE CUSTOMER OR THIRD PARTIES OF SERVICES, DEVICES, PRODUCTS, SIM CARDS AND SOFTWARE, DELIVERED IN CLOUD COMPUTING-MODE AND LICENSED, DELIVERED BY THE SUPPLIER, AS WELL AS THE CONTENT AND DATA REFERRED TO IN ARTICLE 25.3.

**25.5.** AS FOR THE DAMAGES SUFFERED BY THIRD PARTIES IN RELATION TO THE USE (OR LACK THEREOF) OF THE SERVICES SUBJECT TO THIS CONTRACT AND SUPPLIED TO THE CUSTOMER, THE LATTER INDEMNIFIES AND HOLDS THE SUPPLIER HARMLESS TOWARDS WHAT THIRD PARTIES SHOULD DEMAND IN OR OUT OF COURT, UNDERTAKES TO COLLABORATE TO THE PROMPT AND EXPEDITIOUS SUPPLY OF INFORMATION, DOCUMENTS AND EVIDENTIARY FINDINGS THAT SHOULD BE NECESSARY IN CASE OF LITIGATION.

**25.6.** THE CUSTOMER DECLARES AND ENSURES TO HAVE ALL THE AUTHORIZATIONS AND QUALIFICATIONS THAT MAY BE NECESSARY TO CARRY OUT THE BUSINESS THROUGHOUT THE SERVICES REFERRED TO IN THIS CONTRACT AND TO BE IN FULL COMPLIANCE WITH ALL LAWS, REGULATIONS AND OTHER LEGISLATION (INCLUDING BUT NOT LIMITED TO HEALTH, SOCIAL SECURITY, INSURANCE, TAX, WORKPLACE SAFETY AND LABOR LAW IN GENERAL).

**25.7.** THE CUSTOMER COMMITS TO ENSURE THE PARTECIPATION OF ITS STAFF AND/OR ASSOCIATES IN THE TRAINING COURSES INDICATED AND ORGANIZED BY THE SUPPLIER AND AIMED AT TRAINING AND CERTIFYING THE CUSTOMER'S INTERNAL STAFF AND ENSURING THE BEST INSTALLATION, COMMISSIONING, USE, SUPPORT AND SERVICE IN RELATION TO THE DEVICES AND/OR PRODUCTS AND RELATED SERVICES. IT IS UNDERSTOOD THAT THE CUSTOMER, IF THE SUPPLIER EXPRESSLY REQUESTS IT, SHALL REFORM ITS INTERNAL STAFF IF THE LATTER CANNOT GUARANTEE ADEQUATE TRAINING IN RELATION TO THE DEVICES AND/OR PRODUCTS AND RELATED SERVICES.

**25.8.** THE CUSTOMER EXPLICITLY ASSUMES FULL AND EXCLUSIVE LIABILITY INHERENT TO ANY VIOLATIONS OF THE ABOVE STATED OBLIGATIONS BY ITSELF AND/OR ITS EMPLOYEES AND/OR ANY THIRD-PARTY AUXILIARIES AND/OR THEIR EMPLOYEES, AS WELL AS BY ALL PERSONS AUTHORIZED BY IT TO ACCESS THE SOFTWARE AND DEVICES PROVIDED BY THE SUPPLIER, HOLDING THE LATTER HARMLESS FROM ANY DIRECT AND/OR INDIRECT LIABILITY THAT MAY BE CONTESTED AGAINST IT IN RELATION TO SUCH VIOLATIONS, AS WELL AS FROM ANY DIRECT AND/OR INDIRECT LIABILITY – INCLUDING THAT UNDER ARTICLE 2049 OF THE ITALIAN CIVIL CODE – THAT MAY BE CONTESTED AGAINST IT IN RELATION TO ANY ACCIDENT OR DAMAGE TO PROPERTY OR PERSONS THAT MAY OCCUR DURING THE PERFORMANCE OF THE OBLIGATIONS REQUIRED BY THIS CONTRACT.

**25.9.** IN THE EVENT OF ACTIVITIES CARRIED OUT BY THE SUPPLIER AT THE CUSTOMER'S PREMISES, THE CUSTOMER SHALL INFORM THE SUPPLIER'S PERSONNEL OF THE PROCEDURES AND BEHAVIORS TO BE ADOPTED IN THE CASE OF AN EMERGENCY AND SHALL ENSURE THAT THE ENVIRONMENTS, FURNISHINGS AND EQUIPMENT MADE AVAILABLE COMPLY WITH CURRENT REGULATIONS ON SAFETY AND HYGIENE AT WORK, UNDERTAKING, IN DEFAULT, TO INDEMNIFY THE SUPPLIER FOR ANY DAMAGES SUFFERED BY THE SUPPLIER OR ITS OWN COLLABORATORS AND/OR EMPLOYEES, OR TO REIMBURSE THE SUPPLIER FOR ANY AMOUNTS THAT, IN CONNECTION THEREWITH, THE LATTER MAY BE REQUIRED TO PAY TO THIRD PARTIES, INCLUDING ITS OWN EMPLOYEES AND/OR ASSOCIATES.

**25.10.** WITHOUT ANY PREJUDICE TO THE DISPOSITIONS SET OUT IN THE PREVIOUS PARAGRAPHS AND TO THE GROSS NEGLIGENCE AND WILFUL MISCONDUCT AS PER THE LEGALLY BINDING ARTICLE 1229 OF THE ITALIAN CIVIL CODE, CONTRACTUAL AND/OR

NON-CONTRACTUAL LIABILITY OF THE SUPPLIER FOR ANY KIND OF DAMAGES CAUSED BY FACTS ASCRIBABLE TO THE SAME SUPPLIER, IS LIMITED TO THE DAMAGE COMPENSATION AMOUNTING TO: (I) THE AMOUNT OF MONEY OF A SINGLE PERIODIC FEE THAT THE CUSTOMER HAS PAID OR SHALL PAY TO THE SUPPLIER FOR THE PROVISION OF THE SERVICE WITH RESPECT TO WHICH THE DAMAGE OCCURRED DUE TO A FACT ATTRIBUTABLE TO THE SUPPLIER ITSELF; OR (II) TO THE SUM OF MONEY CORRESPONDING TO THE CONSIDERATION FOR THE DEVICE OR PRODUCT, OR FOR THE NON-FEE BASED SERVICE, WITH RESPECT TO WHICH THE DAMAGE OCCURRED DUE TO A FACT ATTRIBUTABLE TO THE SUPPLIER ITSELF. THE PROVISION REFERRED TO IN THIS PARAGRAPH SHALL NOT OPERATE IN THE EVENT THAT THE FACT ATTRIBUTABLE TO THE SUPPLIER CONSISTS IN THE FAILURE TO REACH THE AVAILABILITY THRESHOLD GUARANTEED BY THE SUPPLIER ACCORDING TO ARTICLE 9 ("SERVICE LEVEL AGREEMENT (SLA) RELATING TO THE MAIN SERVICES"), THE PROVISIONS OF ARTICLE 25.5 ABOVE BEING APPLICABLE IN SUCH CASE. COMPENSATION FOR FURTHER DAMAGE IS EXCLUDED IN ANY CASE.

**25.11.** THE SUPPLIER ASSUMES NO WARRANTY, NOR ANY LIABILITY, WHICH IS – IN ANY EVENT – TO BE DEEMED CONTRACTUALLY EXCLUDED, FOR THE PROPER FUNCTIONING OR PERFORMANCE PROMISED OR PROVIDED BY THIRD-PARTY SUPPLIERS, INCLUDING THE PROVISION OF SOFTWARE WITH ANTIVIRUS FUNCTIONS, ANTI-SPAM, FIREWALL, CLOUD COMPUTING SOLUTIONS (IAAS, PAAS, SAAS), PROVISION OF SERVERS (IN HOUSING, HOSTED) OR SERVER FARMS, ETC. FURTHERMORE, WITH REGARD TO ANTIVIRUS PRODUCTS, THE SUPPLIER DOES NOT OFFER ANY WARRANTY NOR HOLD ANY RESPONSIBILITY, AND IS NOT TO BE DEEMED AS BOUND TO ENSURE THEIR FUNCTIONING – ALSO TAKING INTO ACCOUNT THAT ANTIVIRUS SYSTEMS, DUE TO THEIR MODE OF OPERATION, ARE NOT ABLE TO COPE WITH NEW AND UNKNOWN VIRUSES OR THREATS.

**Art. 26. DATA TRANSFER AND DELETION. – 26.1.** SHOULD THE CONTRACT BETWEEN THE PARTIES BECOME, FOR ANY REASON, INEFFECTIVE, ALSO FOLLOWING WITHDRAWAL OR TERMINATION, OR AS A CONSEQUENCE OF A CAUSE OF INVALIDITY, THE SUPPLIER COMMITS TO TRANSFER AND/OR PROVIDE THE CUSTOMER, UPON ITS REQUEST, WITHIN SEVEN WORKING DAYS AFTER THE CEASING OF THE CONTRACT, WITH THE DATA THAT HAVE BEEN STORED UP UNTIL THAT MOMENT ON ITS IT SYSTEMS, IN ELECTRONIC FORMAT ACCORDING TO THE STANDARD USED BY THE SUPPLIER, IN OVERALL CONFORMITY WITH THE PROVISIONS OF ARTICLE 12.4 OF THESE GENERAL TERMS AND CONDITIONS, ALSO WITH REGARDS TO THE PERMANENT DELETION OF DATA. NO PREJUDICE IS, IN ANY CASE, MADE TO WHAT HAS BEEN PROVIDED FOR BY ARTICLE 12.3 OF THESE GENERAL TERMS AND CONDITIONS IN TERMS OF THE MAKING, ON THE SIDE OF THE CUSTOMER, OF BACKUP COPIES OF DATA.

**26.2.** IN THE EVENT THAT VIRUSES, MALWARE, SPYWARE OR ANY OTHER PROGRAMS DETRIMENTAL TO THE IT SYSTEM USED BY THE SUPPLIER FOR THE SUPPLY OF THE SERVICES TO THE CUSTOMER, THE LATTER, THROUGH THE SUBMISSION OF THE ORDER, ACCEPTS THE QUARANTINE AND/OR DELETION OF THE DATA STORED IN THE IT SYSTEM, IF SHOULD DATA ARE INFECTED OR CORRUPTED AND/OR, AT THE SOLE DISCRETION OF THE SUPPLIER, THOUGHT OF TO BE INFECTIVE OR ACTUALLY OR POTENTIALLY DETRIMENTAL TO THE IT SYSTEM OR OTHER DATA. THE SUPPLIER CANNOT BE IN ANY WAY HELD LIABLE FOR THE QUARANTINE OR DELETION OF SAID DATA, SINCE BOTH OPERATIONS MAY ALSO BE AUTOMATICALLY CARRIED OUT, AND TOWARDS WHICH THE CUSTOMER GIVES EXPLICIT PERMISSION, TAKING INTO ACCOUNT ALSO WHAT HAS BEEN PROVIDED FOR BY ARTICLE 12.3 ABOVE.

**Art. 27. ASSIGNMENT OF CONTRACT. SUB-CONTRACT. – 27.1.** IN ORDER TO ENSURE A CONTINUOUS FLOW IN THE SUPPLY OF SERVICES, THE PARTIES AGREE THAT THE CONTRACT BETWEEN THEM CAN BE ASSIGNED OR SUB-CONTRACTED BY THE SUPPLIER, IN WHOLE OR IN PART, TO THIRD PARTIES HOLDING THE SAME TECHNICAL SKILLS AND THE NECESSARY KNOW-HOW AND ENSURING THE SAME LEVEL OF SERVICE AS WELL AS THE SAME MODES OF PERFORMANCE. THE CUSTOMER, BY THE MEANS OF THE SUBMISSION OF THE ORDER, GIVES ITS EXPLICIT CONSENT TO THE ASSIGNMENT OR SUB-CONTRACT ALSO IN THE EVENT THAT THE CONTRACT OR THE CONTRACTUAL STATUS OF THE SUPPLIER SHOULD BE TRANSFERRED TO THIRD PARTIES FOLLOWING A TRANSFER OF THE BRANCH OF BUSINESS, OF INCORPORATION, MERGER OR DEMERGER.

**27.2.** THE CUSTOMER CAN ASSIGN THIS CONTRACT TO THIRD PARTIES, IN WHOLE OR IN PART, UPON PRIOR EXPLICIT APPROVAL FROM THE SUPPLIER, TO BE MADE IN WRITING UNDER PENALTY OF NULLITY.

**Art. 28. COMMUNICATION BETWEEN PARTIES AND CHANGES IN CONTACT INFORMATION. – 28.1.** THE PARTIES AGREE THAT THE COMMUNICATIONS BETWEEN THEM ARE CARRIED OUT ONLINE, TO THE E-MAIL AND CERTIFIED E-MAIL (PEC) ADDRESSES DECLARED BY THE PARTIES. THE CUSTOMER, ALONG WITH THE CONCLUSION OF THE CONTRACT, ELECT DOMICILE, UNLESS DIFFERENT NOTICE TO BE GIVEN THROUGH CERTIFIED E-MAIL (PEC) MEANS, TO THE GEOGRAPHICAL AND ELECTRONIC ADDRESS SPECIFIED IN THE ORDER AND/OR

**28.2.** THE CUSTOMER ACCEPTS TO RECEIVE ANY NOTICE THAT MAY BE APPROPRIATE OR NECESSARY TO THE CONTRACTUAL RELATION, TO THE E-MAIL ADDRESS AND/OR CERTIFIED E-MAIL (PEC) THAT HAS/HAVE BEEN SPECIFIED IN THE ORDER AND EXPLICITLY AUTHORIZES THE USE BY THE SUPPLIER, WITH NO PREJUDICE FOR THE SUPPLY TO RESORT TO OTHER MEANS OF COMMUNICATION. JOINTLY WITH SUCH ADDRESSES, THE CUSTOMER PROVIDES THE LIST OF THE CONTACT PERSONS TO BE ADDRESSED FOR NOTICES CONCERNING THIS AGREEMENT. SHOULD SUCH CONTACT INFORMATION VARY, IT IS UP TO THE CUSTOMER TO PROMPTLY INFORM THE SUPPLIER OF THE CHANGES OCCURRED.

**28.3.** THE PARTIES MAY CHANGE THE E-MAIL AND/OR CERTIFIED EMAIL ADDRESS RELEVANT TO THE PURPOSES OF THIS CONTRACT, AS WELL AS THE LIST OF THE CONTACT PERSONS, BY COMMUNICATING IT TO THE OTHER PARTY THROUGH CERTIFIED E-MAIL. UNTIL SUCH NOTICE IS RECEIVED, THE CHANGE OF ADDRESS SHALL NOT EXPLAIN EFFECT AND COMMUNICATIONS SHALL BE DEEMED VALIDLY AND EFFECTIVELY MADE IF SENT TO THE LAST KNOWN ELECTRONIC MAIL AND/OR CERTIFIED ELECTRONIC MAIL (PEC) ADDRESS DECLARED BY THE RECIPIENT OF THE COMMUNICATION.

**ART. 29. GOVERNING LAW AND JURISDICTION. – 29.1.** THE PARTIES AGREE THAT THE CONTRACT IS, IN ANY CASE, GOVERNED BY THE LAWS OF ITALY.

**29.2.** THE PARTIES EXCLUSIVELY SUBMIT EVERY DISPUTE RELATING TO THE, ALSO WITH REGARD TO THE INTERPRETATION OF THE CONTRACT, TO THE JUDICIAL ACTIONS FOR (INCLUDING, BUT NOT LIMITED TO) ENFORCEMENT, PERFORMANCE AND NON-PERFORMANCE, TERMINATION, RESCISSION, NULLITY AND VOIDABILITY, PRE-CONTRACTUAL, CONTRACTUAL AND NON-CONTRACTUAL LIABILITY, DAMAGE COMPENSATION, RESTITUTION, WARRANTY AND INDEMNITY, INTIMATION, PRELIMINARY AND TEMPORARY PROCEEDINGS TO THE COURT OF BOLOGNA.

**ART. 30. FINAL DISPOSITIONS. – 30.1.** FAILURE OF THE SUPPLIER TO EXERCISE ANY RIGHTS ARISING OUT OF THE CONTRACT BETWEEN THE PARTIES SHALL NOT CONSTITUTE, NOR SHALL IT BE DEEMED TO CONSTITUTE, AN IMPLIED OR IMPLIED WAIVER OF SAID RIGHTS.

**30.2.** ANY NULLITY, VOIDABILITY OR INEFFECTIVENESS OF ANY OF THE PROVISIONS SET FORTH IN THESE GENERAL TERMS AND CONDITIONS OR OF THE ADDITIONAL PROVISIONS APPLICABLE TO THE CONTRACT BETWEEN THE PARTIES SHALL NOT AFFECT THE VALIDITY AND EFFECTIVENESS OF THE OTHER PROVISIONS, EXCEPT AS PROVIDED FOR IN ARTICLE 1419, PARA. 2 OF THE ITALIAN CIVIL CODE. IN ANY EVENT, THE PARTIES WILL MAKE EVERY EFFORT TO NEGOTIATE IN GOOD FAITH SUBSTITUTE PROVISIONS HAVING EQUIVALENT EFFECT.